THE FREEMAN

IDEAS ON LIBERTY

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IDEAS ON LIBERTY

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1987
VOL. 37
NO. 12

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THE FREEMAN
IDEAS ON LIBERTY

Published by
The Foundation for Economic Education
Irvington-on-Hudson, NY 10533
President of
the Board: Robert D. Love
Vice-President
of Operations: Robert G. Anderson

Senior Editors: Beth A. Hoffman
Brian Summers

Book Review Editor: Edmund A. Opitz
Contributing Editors: Bettina Bien Greaves
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The Freeman is the monthly publication of The Foundation for Economic Education, Inc., Irvington-on-Hudson, NY 10533 (914) 591-7230. FEE, founded in 1946 by Leonard E. Read, is a nonpolitical educational champion of private property, the free market, and limited government. FEE is classified as a 26 USC 501 (c) (3) tax-exempt organization. Other officers of FEE's Board of Trustees are: Bruce M. Evans, chairman; Thomas C. Stevens, vice-chairman; Joseph E. Coberly, Jr., vice-president; Don L. Foote, secretary; Lovett C. Peters, treasurer.

The costs of Foundation projects and services are met through donations. Donations are invited in any amount. Subscriptions to *The Freeman* are available to any interested person in the United States for the asking. Single copies $1.00; 10 or more, 50 cents each. For foreign delivery, a donation of $10.00 a year is required to cover direct mailing costs.

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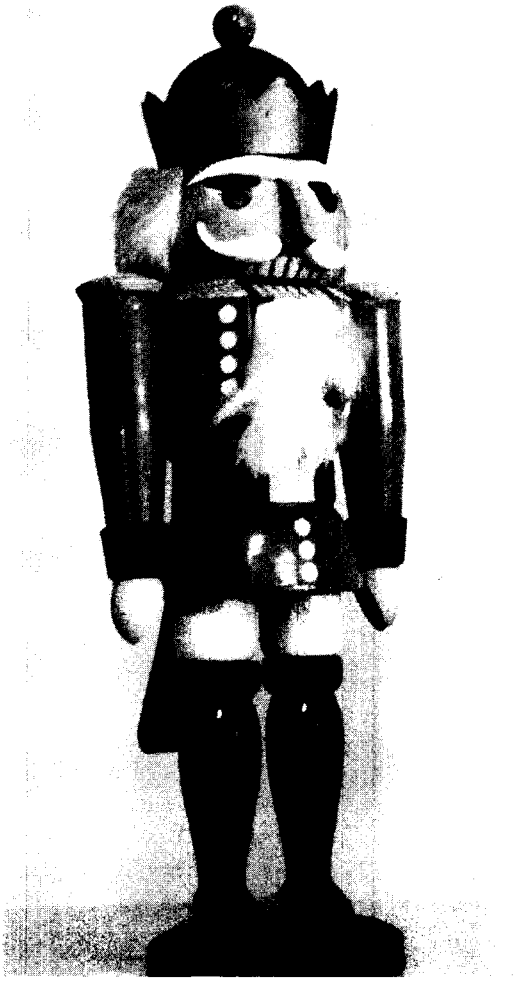
Bound volumes of *The Freeman* are available from the Foundation for calendar years 1969 to date. Earlier volumes as well as current issues are available on microfilm from University Microfilms, 300 North Zeeb Road, Ann Arbor, MI 48106.

The Freeman considers unsolicited editorial submissions, but they must be accompanied by a stamped, self-addressed envelope. Our author's guide is available on request.



The Nutcracker

Tchaikovsky's "Nutcracker Suite" has brought joy to Christmas audiences for almost a century.

The story of the ballet is simple. A little girl receives as a Christmas gift a comical nutcracker. In her dreams he becomes a handsome prince who carries her off to the land of the Sugar Plum Fairy. There graceful dancers perform to Tchaikovsky's delightful music. When the little girl awakes, her Prince Charming has reverted once more to a comical nutcracker. But memories of the delightful dream linger on.

During the Middle Ages, several centuries before Tchaikovsky wrote his music, most of

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the people in Europe were ruled by petty princes and lived under the yoke of tyrannical governments. They were not free to move about, to work, to worship, to speak as they chose. Some unknown woodcarvers relieved their resentment of political authority by carving the faces of their rulers in caricature on comical wooden dolls or nutcrackers.

So the idea for the lovely "Nutcracker Ballet" stemmed from political satire in an unfree society. Out of adversity came joy.

—BBG

On Tolerance

One of the joys of *The New York Times* is the daily crossword puzzle. A recent clue, however, made me pause and think.

Clue: "Allow grudgingly." T O – – R – T –. The answer was obvious: "Tolerate."

The verb "to tolerate" and the noun "tolerance" typically loom large in the lexicons of men and women committed to liberty. Yet is tolerance, understood as "allowing grudgingly," really an adequate term to capture the attitude to other people and their dreams the free society must enshrine? Does not the free society rest upon a positive attitude of respect, even reverence, for the autonomy of individual men and women that goes far beyond a willingness "grudgingly to allow" people to dream their own dreams and peacefully to act in ways they believe and hope will lead to those dreams coming true?

Hence question one: Is "mere tolerance"—a patronizing, grudging allowance of visions of the "good life" one does not share or particularly admire—the attitude to other people and their values defenders of the freedom philosophy espouse? Or is something much more positive involved?

A second and more difficult question: How does one distinguish between "tolerance" and "indifference"?

Maybe one widespread use of the word "tolerance" might highlight this problem. Over time, drug users develop a *tolerance* for their poison of preference. It takes ever-increasing doses of heroin or cocaine or alcohol to get them "high." After years of abuse, they become suicidally "tolerant" of that which is destroying them.

Is it conceivable that a person committed to liberty can learn to "tolerate" viewpoints and practices which are utterly destructive of liberty—viewpoints and practices one might be tempted to describe as "intolerable"? To put it bluntly, when does "tolerance" of political theorists and activists antagonistic to liberty become *de facto* indifference to that antagonism and acquiescence in the erosion of liberty?

At its best, "tolerance" hints of an attitude akin to that described by the ancient Greek historian Thucydides who, in his immortal history of the Peloponnesian War, asserts that citizens of Athens "do not get into a state with [their] next-door neighbor if he enjoys himself in his own way, nor do [they] give him the kind of black looks which, though they do no real harm, still do hurt people's feelings." That attitude, however, surely rests upon a positive respect for the autonomy of human beings, and a passionate commitment to defend the political and economic structures that make the exercise of such autonomy possible. "Grudgingly to allow" people to exercise freedom, or mindlessly to acquiesce in actions which erode a people's freedom, misses the heart of the matter!

— John K. Williams

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THE FREEMAN
IDEAS ON LIBERTY

Scandals

by Joseph S. Fulda

It is impossible to read a newspaper or listen to a newscast nowadays and fail to be impressed by the degree to which our society is beset by scandals, large and small. This was not always so. There was a time when scandals were infrequent, if not rare, deviations from the norm. In short, they were scandalous. Today, they *are* the norm—commonplace and expected, almost natural.

An exploration of the varied causes of this recent and unsettling phenomenon, which we shall undertake here, is necessary if one rejects the conventional wisdom that today's scandals have arisen from the character defects of our current leaders, politicians, and businessmen—who, it is believed, are morally inferior to and more venal than those of yesteryear. In studying news reports over the last few months, several sociopolitical trends largely responsible for the huge increase in indictments precipitated by scandals clearly emerge.

First, there are more requirements and prohibitions set by the law, the courts that interpret them, and the administrative agencies that apply them than ever before. And even where the requirements or prohibitions are longstanding, the focus, energy, and skill brought to their enforcement is a recent development. Naturally the more laws and regulations there are to be broken, the more violations will occur. And the more effort applied to discovering such violations, the more will be discovered.

Joseph S. Fulda is Assistant Professor of Computer Science at Hofstra University and resides in Manhattan.

It is not that this generation has discovered more *mala in se,* the political theorist's term for acts wrong by their very nature and apprehensible as such to any civilized man. Rather it is the extreme proliferation of the *mala prohibita,* the designation classically given to acts simply declared crimes by the state. Into this category fall many of the ancient victimless crimes, but also, and even here in capitalist America, many economic "crimes."

For example, it is a *felony* to purchase five per cent of a company's stock without notifying the government. This not only is an abridgment of the freedoms of speech and enterprise, it is hardly apprehensible as wrong by its very nature. Even worse, it is also a felony to aid someone's nondisclosure of five per cent ownership, by holding the stock for him. What we have here, then, is a situation where a mere bailment is treated as a serious crime, its triviality masked by such terms as "parking securities" and "stock fraud," which to the general public sound so ominous.

Then there are also the numerous restrictions on mere possession, which have included illegal substances, controlled substances, contraband, fireworks, gold, firearms, burglars' tools, and whatnot. Also burdensome are the many restrictions on the peaceful exchange of goods and services between consenting adults. For example, it is felonious for a stockbroker to lend a client more than a specified percentage of the means needed for a securities purchase. What once would have been seen as an act of brotherhood or at least a common business

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practice has become a "margin violation," punishable by a prison term. Furthermore, when services are exchanged, even between friends, both parties are required to report the service received as barter income or face federal charges. One can't even exchange small favors without the intrusion of the taxman.

Proscribed and Prescribed Actions

On and on the list goes—and we haven't even begun to enumerate the restraints and mandates placed on business enterprises. But the idea is already clear: The index of proscribed and prescribed actions far outstrips the security needed by civilized men for social intercourse. And the longer this irrational and capricious list grows, the longer will be the list of offenders. It is well to recall Jefferson's comment on this trend already evident in 1816. "Our legislators," he wrote, "are not sufficiently apprised of the rightful limits of their power: that their true office is to declare and enforce only our natural rights and duties. . . . The trial of every law by one of these texts would lessen much the labors of our legislators and lighten equally our municipal codes."[1]

Second, there has been an almost unimaginable expansion of government-sponsored programs, government-funded programs (grants and subsidies), and government regulation of privately sponsored and funded activities. As I discussed in an earlier article,[2] such programs provide almost limitless opportunities for abuse, both for the legislators, bureaucrats, and regulators dispensing the funds, permits, or contracts and for the corporations and individuals seeking to receive them. And both sides, givers and takers, have used these opportunities.

An excellent and timely description of this process comes from William Stern, formerly CEO of New York State's Urban Development Corporation—a huge government agency "that does everything from building convention centers to financing economically depressed mushroom farms." Mr. Stern candidly admits that "[t]he fact that government is involved in so much in New York . . . creates the motivation to influence government. And the process of influencing government is always sleazy. . . . It's a side of liberalism that was not predicted, and I think not completely understood. . . . [T]he government becomes very much organized to push through the interests of whoever makes their influence felt."[3]

In other words, the use of what Albert Jay Nock called "the political means" of acquiring wealth—taking it—rather than "the economic means"—earning it—is seductive. By its expansion into all areas of everyday living, government is creating temptations on a massive scale. It is easy to fault individuals who succumb to temptation, but one should do so only with the realization that government-wrought temptations are today ubiquitous and overpowering. Thus, it is not that people on both sides of the government dispensary are morally weaker than those of earlier times: The problem is the incredible size and scope of the government dispensary, and the very notion that government may take from A to give to B or regulate the peaceful activities of A to benefit B. In pursuit of privileges, favors, and contracts, people often ignore the rule of law and thereby risk ending both their own careers and the careers of those in government who assist them in return for some form of payoff. Thus, as the daily news reports show us, the existence of the government dispensary with its enormous temptations and corrupting influence is not only theoretically indefensible, it is a very real human tragedy which brings people down at the peak of their powers who otherwise would have lived decent lives and had productive careers.

Third, with the advent of special prosecutors, full-disclosure requirements, and many other similar developments, the intense scrutiny placed on public officials and public figures is greater than that of any previous age. Facilitated by modern transportation, communication, and information processing systems, such scrutiny is urged on us by its advocates because of the pervasive corruption discovered in and following the Watergate era. And the more corruption discovered, the more intense is the push for yet more scrutiny.

On the surface, it appears that this trend is not directly caused by the growth of government. After all, scrutiny from the press, encouraged by the very weakened state in which

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the courts have left libel law in the United States, can be as unrelenting as that of a U.S. Attorney, a state prosecutor, or a legislative panel.

However, closer examination reveals that what really has occurred is the blurring of the all-important distinction between private and public. With almost everything heretofore considered private now considered public, such scrutiny is to be expected. And the continuing attenuation of the distinction between the public and the private is a direct consequence of the growth of government.

Nor is scrutiny itself goal-free. Most of it is directed to discovering whether the person has violated some insignificant *malum prohibitum* or whether he has been involved in the abuse of the government dispensary. Only rarely does the scrutiny placed on persons in public life result from suspicion that a *malum in se,* unrelated to the government dispensary, has been committed.

In sum, were government's powers to grant subsidies, privileges, contracts, tax exceptions, licenses, and permits sharply curtailed and were government to refrain from declaring peaceful acts illegal, even today's heightened scrutiny would yield little of substance. The public would soon lose interest in reading about probes, inquiries, hearings, and investigations —and scandals once again would be scandalous. □

1. E. Dumbauld, ed., *The Political Writings of Thomas Jefferson,* p. 55.
2. J. Fulda, "The New Bondage," *The Freeman,* April 1982, pp. 243-248.
3. P. Weber, "City of Scams: The Streets Were Paved with Gold Diggers," *National Review,* June 5, 1987, p. 27. The article discusses the corruption scandals in both New York State and New York City, which magnify yet still typify the situation with government in general.

IDEAS ON LIBERTY

Culture vs. Barbarism

Culture strives to establish a boundary between itself and barbarism. The manifestations of barbarism are called "crimes." But existing criminology is insufficient to isolate barbarism. It is insufficient because the idea of "crime" in existing criminology is artificial, for what is called crime is really an infringement of "existing laws," whereas "laws" are very often a manifestation of barbarism and violence. Such are the prohibiting laws of different kinds which abound in modern life.

The number of these laws is constantly growing in all countries and, owing to this, what is called crime is very often not a crime at all, for it contains no element of violence or harm. On the other hand, unquestionable crimes escape the field of vision of criminology, either because they have not the recognized form of crime or because they surpass a certain scale. In existing criminology there are concepts: a criminal man, a criminal profession, a criminal society, a criminal sect, a criminal caste and a criminal tribe, but there is no concept of a criminal state, or a criminal government, or criminal legislation. Consequently the biggest crimes actually escape being called crimes.

—P. D. OUSPENSKY
A New Model of the Universe

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Should Cigarette Advertising Be Banned?

by Douglas J. Den Uyl and Tibor R. Machan

The American Medical Association has recently called for a ban on the advertising and promotion of all tobacco products. A new wave of debate on Constitutional questions and on the nature of advertising is sure to follow and, indeed, has already begun. We intend to sidestep the "public policy" approach and focus instead on what is less discussed: basic moral and political values.

We consider the main values embodied by our Constitution to be basic moral values as well. Central among these values are liberty, limited government, and natural or human rights. We also take it that these values are not subject to majority rule. This point was clearly expressed by the U.S. Supreme Court when it stated in *West Virginia State Board of Education* v. *Barnette* (1943) that

> The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials, and to establish them as legal principles to be applied by the Courts. One's right to life, liberty and property, to free speech, a free press, freedom of worship and assembly and other fundamental rights may not be submitted to a vote; they depend on the outcome of no elections.

Our particular issue is commercial speech and its deserved protection under the First Amendment. Tobacco advertising is a clear though controversial example of the principles we wish to address.

Virtually all attacks on liberty, including the liberty to express various viewpoints, ideas, theories, beliefs, appeals, requests, and so forth rest upon a basic moral error. This is the error of confusing basic rights with what is morally or ethically right.

The recent attempt to ban commercial speech about tobacco products is one of the purer examples of this error. If we assume, for the sake of argument only, that it would be right for people to stop smoking, we have, as yet, said absolutely nothing about the rights of the case. It may turn out that forcing people to quit smoking, restricting their access to tobacco products or information about such products, violates their rights. The paradox here is that in the pursuit of what is right, one may do what is morally wrong!

The reason for the paradox is that the particular way in which the "good" (or right thing) in question is pursued may conflict with another good that takes priority. All social moral principles are not created equal. Some are more fundamental than others. What is characteristic of rights is that, almost by definition, they are foundational or basic. Other social values must give way to them in cases of conflict. We can see this in everyday speech. It makes perfect sense to say, "It may not be right for someone to do (or believe) this, but he or she has every right to do so."

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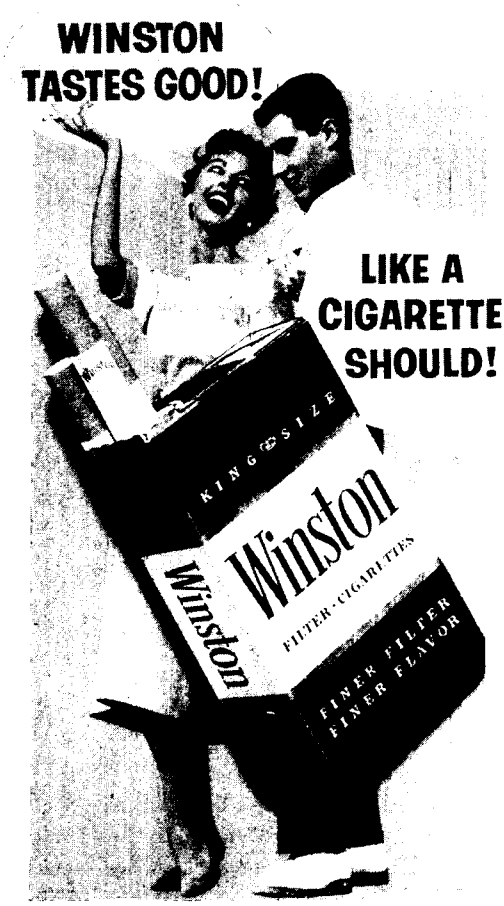

When this ad appeared, the loudest protest came from grammarians, not regulators.

But what rights do we have? Some rights seem to be dictated by common sense. The "right" not to be harmed seems to be one of these rights. If this is a right, shouldn't tobacco products or information about such products be restricted or banned?

Unfortunately, common sense is not always accurate. There is in fact no basic "right not to be harmed." The reason for this is twofold: People can voluntarily undertake risks, and people can have their rights violated without being harmed. In the first case, people voluntarily pursue dangerous activities all the time. They take on dangerous jobs, pursue dangerous sports, drive cars, and so on. What we expect in such situations is that the people involved have some conception of the risks they are undertaking—not that they be free from harm. In the second case, if the government restricts my freedom to speak on behalf of a cause I do not believe in, I have not been harmed, but my rights have been violated. In the end, then, rights and harms are not necessarily connected.

In a similar vein, rights and government have no necessary connection with each other. Some people mistakenly believe that rights are what the government allows us to do. But if this were true, it would make no sense to say that governments can violate people's rights, something they in fact do quite often. Since, as the Declaration of Independence so clearly notes, we are "endowed . . . with certain unalienable rights," we can possess rights that were not given to us by government and which government cannot legitimately take away. The first ten Amendments were designed to protect us from government infringement of rights we were said to possess "by nature."

Basic Rights

The Amendment that concerns us here is the First; but the principle behind all of them is the same: People have basic rights independent of governments. This principle further enforces our claim that a fundamental error occurs when one confuses rights with what is right. For what one discovers about basic rights is that they represent liberties, and liberty implies the possibility of *choosing* a "wrong" course of action as much as a "right" one. This point is clearly evident in freedom of speech cases where many wrongheaded causes and ideas are allowed to have their say with the same degree of legitimacy as those that are closer to the truth. Our basic rights, therefore, must be understood as essentially liberties; and these liberties are given political expression through Constitutional guarantees against government interference.

The main remaining issue here is whether people can have their liberties restricted in the name of "paternalism"—using the power of government to protect us from ourselves. But in a free society, if paternalism has a place at all, it would arise only in cases where information about alternatives was lacking. But clearly such is not the case with tobacco products and their use.

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Of course, we are not arguing or conceding that smoking is the "wrong" that must be protected by our distinction. Whether someone's smoking qualifies as wrong conduct is certainly not a simple matter to decide. Even if in some cases it is clearly wrong to smoke, there can be many others when it is not. Yet some certainly regard smoking in this way; and it is useful to recognize that even if one concedes the point about the "wrongfulness" of smoking, no foundation has yet been laid for waiving basic rights or Constitutional protections.

In a recent case, the Federal Trade Commission (FTC) charged the R. J. Reynolds Tobacco Company with running a false and misleading advertisement ("Of Cigarettes and Science") on the health effects of cigarette smoking. The FTC believed the advertisement to be deceptive because R. J. Reynolds had interpreted a government study on the causes of heart disease in a way that was not detrimental to smoking. The FTC lost the case because the judge ruled that the advertisement qualified as noncommercial speech, since no prices, brands, or products were mentioned. Had prices, brands, or products been mentioned, the FTC would have had the power to regulate the advertisement under the limited First Amendment protections granted to commercial speech.

The question arises, however, as to why R. J. Reynolds would not enjoy full First Amendment protection even if it had mentioned its own products?

In the last few years, the courts have given commercial speech secondary status with respect to First Amendment protection. Although the courts clearly protect the right to advertise, they nevertheless subject advertisers and producers to the myriad of government regulations.

The secondary status of commercial speech is the inevitable result of trying to reconcile free speech with a regulated economy. But this reconciliation is conceptually unstable. It assumes, on the one hand, that economic activities can be divorced from communication and information about such activities. Since these two cannot be separated, the right to free speech is compromised in an attempt to retain the government's power to regulate voluntary economic transactions. On the other hand, the reconciliation assumes that the right of free speech applies to some categories of speech and not others. Commercial speech needs to be wrenched from other forms of speech to make this argument fly, yet no logical and legal ground can be found for this in the U.S. Constitution.

"Private" vs. "Public" Speech

The main way of trying to separate commercial from noncommercial speech is to argue that the latter is "public" speech while the former is "private" because it serves some private interest. This distinction is used to argue that the court has gone too far in allowing First Amendment protection of commercial speech. The First Amendment, these critics claim, was meant to cover cases of public speech, not private. They would agree with us that it is incoherent to grant commercial speech only partial protection; but their solution is to afford commercial speech no First Amendment protection at all!

The distinction between public and private speech is simply not viable. In the first place, it is typical for those who object to First Amendment protection of commercial speech also to fail to object to government regulation of the economy. But if economic matters were purely private, the government could have no "public" interest in regulation, and it is the supposed public interest of government in economic regulation that refutes the claim that commercial speech is a purely private affair.

In addition, those who speak are seldom, if ever, as disinterested as the concept of "public" speech would lead us to believe. Groups which have causes to advance in the name of the "public interest" have at stake precisely the same things as corporations do in their advertisements: organizational growth, jobs, visibility, competitive advantage (relative to other groups with a cause), and the like. Individuals, too, seldom make disinterested public pronouncements, especially on controversial issues of public policy (e.g., taxes and zoning changes). If the First Amendment is not designed to protect self-interested speech, there is precious little that it does protect.

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"The secondary status of commercial speech is the inevitable result of trying to reconcile free speech with a regulated economy."

Finally, speech, by its very nature, is public, since it is communication. And advertising is most certainly public, because it is addressed not to particular individuals, but to unknown members of the public. We should abandon the distinction between private and public speech and accord commercial speech the same full First Amendment protection given to all speech.

Does it now follow that advertisers can make any false or fraudulent claim they wish about their products? The answer here is no, because there is a significant moral difference between making a promise and expressing a belief. The informational components of advertisements can plausibly be construed as an initial statement of terms between seller and buyer. This is why it is legitimate to hold advertisers accountable to some degree for the truth of their ads. Expressions of belief, on the other hand, do not function like promises, because no one is called upon to deliver a good according to stated terms. No one has the right to defraud another. But to say that hardly justifies intrusive governmental regulation of commercial speech.

If the R. J. Reynolds advertisement had included accurate product information, the ad could not be held morally and legally culpable. The court should have ruled in Reynolds' favor, even if they had included product information as part of the advertisement. The court's attempt to dodge the issue by calling the Reynolds advertisement "noncommercial" may have been convenient, but it leaves commercial speech vulnerable to attack by foes of liberty.

In this respect, the court has strayed even wider of the mark in its recent ruling in *Posadas,* a case that arose in Puerto Rico in which once again the court distinguished between commercial and other types of speech, a distinction that is inexcusable despite the specious claim that the "original intent" of the First Amendment was to cover only political speech. In fact, however, the precise *meaning* of the First Amendment concerns any kind of speech whatever, and a law must be interpreted to mean what it says—legislative intentions are too diffuse and varied for us to be guided by them.

It is true that the First Amendment does not unequivocally grant protection to commercial

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speech, but that is irrelevant—it certainly does not bar such protection either, just as it does not bar protection for religious, philosophical, ideological, poetical, or any other special kind of speech.

If this is not sufficient, as it should be, we should also recall here the Ninth Amendment which says that "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." This Constitutional provision can only be understood as wisely extending protection to many matters not explicitly mentioned or foreseen by the Founders. So when the First Amendment is coupled with the Ninth, one must assume that commercial speech is still speech and hence Constitutionally protected. When we also add to all this that the Fourteenth Amendment requires that "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws," it becomes clear that a ban on any kind of honest advertising would constitute a form of discrimination against people in business vis-à-vis other professions, activities, and forms of speech. In short, the principles embedded in the Constitution clearly favor the argument for full Constitutional protection of commercial speech.

Nevertheless, the argument persists and is a simple one: Cigarettes are "lethal" products while the images conveyed by cigarette ads in no way convey this danger—indeed the opposite message is conveyed. The consumer is therefore deceived into believing that cigarette smoking is acceptable, attractive, or without risks and hazards. This argument, however, is nothing but a version of the old shibboleth that advertising itself is inherently deceptive.

Advertisements are said to be inherently deceptive because they "selectively emphasize" certain features of a product to make the product appear more attractive. Since this technique ignores or de-emphasizes other features, the consumer is deceived. The moral conclusion many draw is that since advertising is deceptive, and deception is morally wrong, advertising is morally wrong.

But the case for "generic deception" depends upon there being something wrong with presenting something in a positive light and upon the likelihood that people are unaware of the type of message being delivered. Neither condition can be satisfied.

There is nothing wrong with presenting something in its most attractive light. We do this all the time. On our resumés we do not list the jobs we lost or the failures we had. In our personal grooming we take care to look attractive and hide our "flaws." As to the nature of the message, what is generic to advertising is precisely the effort to present something in its most attractive light. Since attractive presentation of information is virtually what we mean by an advertisement, it is nonsensical to claim generic deception when one confronts an advertisement. Selective emphasis does not violate the canon of truthfulness *per se,* because the basic truth conveyed by advertising is that when you see it you expect to see the item portrayed in its best light. And surely there are (some) attractive people who use tobacco products.

After examining basic moral and Constitutional values, one is forced to conclude that the tobacco industry is on the side of principle in its opposition to the AMA. It is obvious that banning or restricting commercial speech about tobacco products ignores basic rights and liberties and opens the door to further coercive control of speech.

What is perhaps less obvious is the damage already done. That Congress and the media could take a proposal like the AMA's seriously, and indeed that well-educated medical professionals could be so completely ignorant of the meaning of liberty, signifies a national crisis of understanding of our own heritage of political liberty. Furthermore, the *ad hoc* attitudes of the present Court concerning commercial speech offer little hope that this crisis will be remedied from this quarter.

Yet in the end, what disturbs us most is how insulting all this is. Despite continual subjection to claims about the evils of tobacco, we are being told that we are too incompetent to make up our own minds about these products. The damage that has already been done is reflected in the fact that we take such insults on a daily basis. Let us reverse the trend and identify the insult as just that. It is a first, but necessary, step in preventing the world from filling up with fools. □

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The Ancient Suicide of the West

by Nicholas Davidson

I. Interpreting the Decline of Rome

The fall of the Roman Empire remains one of the great unsolved riddles of history.[1] Rome rose from obscurity to dominate the ancient world until it became practically synonymous with civilization itself. Yet a few centuries later its terrified survivors, decimated by disease, famine, and infertility, eagerly laid their necks beneath the swords of barbarian conquerors. Why?

Edward Gibbon, who set out to solve this riddle at the time of the American Revolution, had yet to find any but the vaguest of answers by the end of the six volumes of his great work, *The History of the Decline and Fall of the Roman Empire*. By answering the riddle of the fall of Rome, Gibbon hoped to discover whether modern European civilization might be threatened by a similar fate. Precisely because the riddle remains unsolved, Gibbon's *History* remains the standard work in its area—a unique situation in the field of history, where obsolescence overtakes most works within a few years of publication.

Despite his high reputation, Gibbon was something of a plodder, and his work is full of repetition and the sacrifice of concept to narration: a touchstone of English usage in its few inspired moments, a valuable source even today, but scarcely a model of analytical clarity. At the end of his study of the fall of Rome, Gibbon concluded that modern civilization, unlike Rome, was too complex to fall, without adequately specifying what the conditions for that complexity might be.

Gibbon's vagueness has inspired a seemingly endless stream of alternate explanations. After reviewing the same general evidence, scholars have come to the most diffuse and frequently the most farfetched conclusions.

A classic example is F. W. Walbank's account of the decline of Rome, *The Awful Revolution*. While his narrative is elegantly constructed and factually reliable, his conclusions are less convincing. Walbank argues that the lessons of the decline can guide us in the present. "Having learnt the lessons of that 'awful revolution', we can more advantageously devote our passions and our energies to the amelioration of what is wrong in our own society." What are these "lessons," according to Walbank? He describes in detail the coercive economic actions of the Roman state and then concludes that "private enterprise, left to itself, was proving unequal to the task of feeding the civilian population." The fall of Rome is attributed to insufficient government planning. We must, he writes, "attempt to plan the resources of modern society for the whole of its peoples." Every misguided state action that hastened the fall of Rome—family policy, industrial policy, wage and price controls—is trotted out by such supremely accomplished scholars as Walbank as a remedy for modern ills.[2]

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One is forced to the realization that no matter how erudite a historian may be, his conclusions about past socioeconomic events are only as reliable as his grasp of economic theory. Since the 1920s, the pick of classical scholars have lived amidst a miasma of fanciful notions on the relation of government policy and social progress. It is precisely in the most sophisticated milieus that the naïvetés of leftism have bitten deepest, as in Britain, where many of the leading historians of the past fifty years have been large-C Communists, and in America, where socialist, Marxist, and New Deal mentalities have great prestige in the academy and it is normative to ridicule the free market.

A better explanation for the decline of Rome must address the universality of the problems that confronted the Romans. The evils that Rome faced were not worse than those faced by other societies before or since. Political turmoil, civil war, invasion, plague, famine, and all the other scourges of the ancient world can be found abundantly in the histories of all societies, including modern and early modern Europe. Why in the seventeenth century did England not succumb to plague and civil strife, nor Holland to devastating, repeated invasion? Rome itself had survived all these scourges, including invasion, occupation, civil war, and ceaseless barbarian pressure during the republic and the early empire. What none of the factors, commonly advanced to explain the fall of Rome, can do adequately, is to show why, at the very pinnacle of its grandeur in the first century A.D., at a time when it utterly dominated the ancient world, Rome's culture and economy should have entered a precipitous and ultimately fatal decline.

II.
The Free Market of the Ancient Mediterranean

Classical civilization was a middle class civilization. It stood at the pinnacle of a long process of democratization that had begun hundreds of years earlier. Broadly speaking, the aristocrats first overthrew the kings. The oligopolies they established were in turn overthrown by the upper middle class.

A vast development of trade between the ninth and the fifth centuries B.C. underlay this development. The central importance of commerce was self-evident to the ancient Greeks. As Plato has Socrates say in the *Republic*, "To find a place where nothing need be imported is well-nigh impossible," to which Socrates' interlocutor rejoins, "Impossible."[3]

The expansion of trade gave rise to a large and affluent middle class. Two of the criteria of aristocratic worth—wealth and military value—simultaneously passed to the middle class. Building on these assets, the middle class sought and in many cases achieved cultural and political influence commensurate with its economic power. By the peak moment of Greek civilization in fifth century Athens, the upper middle class occupied a position roughly analogous to that of the upper middle class in Britain after 1688 or France after 1789, as the cultural center of society.

If the Greeks, along with the Phoenicians and their Carthaginian descendants, were a thorough success as merchants, they were less successful in their political efforts. They experimented with every form of government without ever transcending the specter of political instability. But the political turbulence of the Greek world may have held unsuspected economic benefits.

The disunited world of the ancient Mediterranean constituted a *de facto* free market. States, each one seeking its own interest, competed against each other, with none able to gain a lasting advantage. In this setting, commerce flourished. The population and prosperity of the Mediterranean basin increased dramatically.[4]

Little by little Rome swallowed up the states of the ancient Mediterranean, such as Marseille, Syracuse, Carthage, Athens, and Egypt. At first the benefit seemed enormous. The chronic war and piracy which had plagued the Greek world were suppressed. Briefly the world knew peace and order and was able to expand its infrastructure. The ancient world reached yet a new peak of population and prosperity.[5] But the state which made this possible carried within itself the principle of its own destruction.

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III.
Collectivism Under the Roman Republic

Throughout its history, Rome defined civic rights and duties as the properties of collective bodies. Under the republic (c. 500 B.C.-27 B.C.), these bodies achieved a certain balance, so that, no one body being able to completely dominate any other, the power of the state over the individual, while in principle absolute, was in practice limited. A senatorial governing class, an aristocracy of "equites" or knights, and a distinct citizen body of plebeians shared hegemony over the various aspects of public life. Further segmented into influential extended families, the Roman republic embodied powerful principles of both balance and unity.

In the later years of the republic, the power of these intermediary bodies eroded even as the aggregate power of the state, augmented through conquests, reached unprecedented heights. After a series of civil wars between rival generals, one of them, Julius Caesar, emerged as supreme ruler. His successor Augustus (ruled 27 B.C. to 14 A.D.), founded the Roman Empire. Over the next four hundred years, that empire was progressively to snuff out the power of all the intermediary institutions. Ironically, the principle of collective rights which had sustained Roman liberty under the republic would be used to undermine ancient civilization itself under the empire.

Already in the late republic, the practices had begun which were to prove fatal under the empire. The functions of society gradually became the properties of exclusive classes. The upper classes were as restricted as the lower. By a law of 218 B.C., senators were forbidden to own cargo ships. This law forced the Roman upper class to invest in land rather than commerce. Since induction into the senatorial order was becoming a prerogative of success, the result was to forbid successful men to engage in trade.

It is characteristic of the low esteem in which the Romans held trade that Cicero described it as a vile occupation, unworthy of a man of honor. "We condemn the odious occupation of the collector of customs and the usurer, and the base and menial work of unskilled laborers. . . . Equally contemptible is the business of the retail dealer; for he cannot succeed unless he is dishonest. . . . The work of the mechanic is also degrading; there is nothing noble about a workshop. . . ."

Only retirement from commerce could legitimate a businessman. Cicero goes on to say that "[I]f the merchant, satiated, or rather, satisfied, with the fortune he has made, retires from the harbor and steps into an estate, as once he returned to harbor from the sea, he deserves, I think, the highest respect."[6]

Barred from commerce by law and custom, the upper class sought to maintain its prerogatives by limiting the commercial opportunities open to others. The Macedonian mines were closed, and those of Italy virtually so, with this intention.[7] The lower classes of citizens were themselves not immune to such temptations.

The forced purchase of grain from farmers at a price set by the state was common by the late republic.[8] Wreaking further havoc with the market, much of this grain was resold by the state at a yet further subsidized price. Some of it was distributed outright to the lower classes of Rome. Seeking popular support, demagogues increased the numbers of those eligible for these distributions. Hundreds of thousands of Romans acquired the right to free grain.

Meanwhile finance, even more despised than trade, remained underdeveloped. Throughout Roman times, successive attempts were made to legislate the rate of interest: sometimes 4 per cent, sometimes 8 per cent. At one point interest was forbidden outright, leading to surprise when the supply of loan funds suddenly dried up. Denied the means to meet changing economic conditions, the banking system of the Hellenistic world was disrupted; it eventually disappeared altogether. Such policies depressed the supply of loan capital, causing the same excessive interest rates they were meant to discourage. Combined with onerous taxation, the net result of state agricultural and financial policy was to drive farmers off the land.

The parts of the empire first conquered were the first impoverished. Even before the establishment of the empire, Roman policy had ruined fertile Sicily, previously the breadbasket of Italy, and virtually ended the cultivation of grain in the Italian peninsula itself. The

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The Circensian Games. Among the most famous Roman circuses were the Circus Maximus, the Circus Flaminius, and the Circus Neronis.

thriving old Greek states of Asia Minor underwent a comparable decline.[9] The problem of *agri deserta*—fertile but deserted farmland—was to haunt Rome until its fall. The resulting combination of urban unemployment with rural depopulation presented Rome with a quandary it was never to resolve.

The amount of grain consumed by the city of Rome alone was considerable. Under the empire, the annual consumption of subsidized grain in Rome probably exceeded 17,000,000 bushels.[10] The state expenditures necessary to maintain a supply of free grain imposed a permanent need for revenue, which was not a problem so long as Rome was a conquering power gathering to itself the accumulated capital of the ancient world,[11] but became increasingly critical as the age of conquest came to an end and taxation replaced plunder as a source of state income. Most of the taxes were paid by the very farmers whose livelihood they were used to undermine. Too, state appropriation of the grain supply must inevitably have discouraged the development of efficient private markets.

All these tendencies were to accelerate under the empire, under an increasingly absolute Emperor and a bureaucracy which relentlessly expanded until it became virtually coterminous with society itself.

The Beginning of the Decline in the Early Empire

The late republic was a period of chronic political instability characterized by mob violence, political assassination, and intermittent civil war. The price of involvement in politics was often violent death. The assassination of Julius Caesar is only the best-known of the political murders of this period. Yet despite this turmoil, Rome's aggregate wealth and power continued to increase up to the founding of the empire in 27 B.C.

At the very moment Rome triumphed over the rest of the ancient world, the forces of statism were reaching a point of critical mass, at which their full effects came into play. In consequence, the unparalleled economic growth and cultural impetus of the classical world were stalled and then reversed.

Gibbon began his *History* with the second century of empire, the age of the Antonines. But towards the end of his life he regretted he had not begun much earlier. In fact, the decline began as soon as the empire. The flowering of the Augustan Age was remarkably brief—a matter of a single generation. After this one great initial burst of energy, Rome lapsed into sterility and decadence. Under the pressure of government interference, trade, agriculture,

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letters, art, and personal freedom entered a decline which is visible almost from the beginning, and was a frequent source of concern for ancient writers.

The Roman economy reached its peak toward the middle of the first century A.D. and thereafter began to decline. One symptom of this condition was that long-distance trade in manufactured goods fell off noticeably in the course of the first century.[12] Never halted, the economic decline would steadily accelerate until the whole of classical civilization was sent into a tailspin.

A Rapid Enfeeblement

Depopulation followed. In the countryside, the peasants continued to desert their lands, even as the competing slave population shrank with the receding of the time of conquests.[13] In letters, the writers of the last generation of the republic and the first generation of the empire set a dazzling standard that was never matched. Cicero and Virgil would have many admirers, but no equals, as education became a matter of imitative declamation. The Emperors, as their power became increasingly absolute, accelerated this trend by persecuting or simply killing adverse literati. In portraiture, there is a falling off that is noticeable immediately. High art, which had been the prerogative of many, increasingly became a prerogative of the Imperial court. The scientific impetus of the Greeks virtually disappeared, with a few isolated exceptions like the physician Galen—and even he may have been more of a compiler than an originator. The story of the first century A.D., the apex of Roman glory, is thus that of a rapid and progressive enfeeblement of those very elements which had made classical civilization a great age of achievement.

"The Golden Age of the Antonines"

By the end of the first century A.D., the peak had passed and the decline began in earnest.

The stagnation in all aspects of society was associated with a continuous extension of governmental functions. Social engineering was tried on the grand scale. The state relentlessly expanded into commerce, industry, and private life.

Government acquired near-monopolies of previously private or mixed sectors, such as mines and quarries.[14] Many of the humble inhabitants of the empire became direct employees of the state. At the same time, the bureaucracy grew, demanding an ever-larger share of state expenditures.

Depopulation became general. The problem was not limited to impoverished peasants. The urban upper middle class on which so much of classical civilization depended seems to have developed a catastrophically low birth rate. As usual, the response of Roman government was to enact coercive legislation. Under Augustus, elaborate laws had been promulgated to penalize the unmarried and the childless. These laws were to be frequently reaffirmed over the following centuries.

Mass population transfers were tried, whether to people recently conquered lands, to replenish newly depopulated ones, or as political policy. The Diaspora began as a characteristic act of Roman administration.

To meet its growing expenditures from a shrinking tax base, the government began to resort to deliberate inflation, devaluing the currency time and again. A succession of attempts was made to restrict wages and prices.[15]

In the meantime, plague struck the empire. The specter of famine had never been completely banished by Rome even in the time of its prosperity.[16] It is not too much to speculate that a population weakened by poverty and hunger proved newly susceptible to the ravages of disease. The plagues, which devastated the Roman world, seem to have had little lasting effect on the hordes of barbarians on the fringes of the empire.

By the time the so-called "Golden Age of the Antonines" ended in 235 A.D., the Roman world was weaker, poorer, less populous, and in important ways less civilized than it had been in the mid-first century. Yet no external force had intervened powerful enough to halt and then reverse the progress of classical civilization, which for the previous six hundred years had only gone from strength to strength.

Neither political chaos nor irresponsible rule

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The death of an emperor.

can be blamed for this state of affairs. The decline became most tangible between 96 A.D. and 180 A.D. under the successive reigns of the "five good emperors," who were widely admired in their time and recommended for centuries thereafter as models of enlightenment to European monarchs and statesmen. Indeed the best of them, such as Marcus Aurelius, came as close as humanly possible to fulfilling the Platonic ideal of the "philosopher-king." Though uniformly conscientious, concerned, and hard-working, the Antonines seem only to have exacerbated the problems of their society.

It was during this period that Rome ceased its outward expansion and, turning inward, began to suffer from the incursions of the barbarians into whose lands it had previously expanded with impunity.

The Time of the Fifty Emperors

The problems that had slowly sapped the forces of the Roman Empire worsened during the period of acute political instability from 235 to 284. During this half-century, nearly every emperor died a violent death, often after reigns of less than a year. As the civilian fabric of the empire disintegrated, the military came to the fore, making and breaking emperors as it pleased. As in the late republic, the Roman world was once again ravaged by civil war—but this time there would be no recovery.

The anarchy ended only with the accession of Diocletian in 284. Diocletian was another "philosopher-king" in the Platonic mold, both a forceful and a scrupulous monarch, so immune to the opium of power that, still in his

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vigor, he chose to spend his later years in voluntary retirement. Diocletian's policy, designed to give the empire a new lease on life, in fact practically ensured its downfall.

The Roman World after the "Reforms" of Diocletian

Imagine a world in which peasants are bound to the soil; in which the military dominates society; in which soldiers form a hereditary caste; in which sons are required to follow their fathers' trade; in which commerce is under the exclusive control of privileged guilds; a world where material and moral progress are slow or absent, but where poverty, hunger, and disease are ubiquitous, and the magnificence of the few serves only to highlight the misery and degradation of the many. Such an image evokes for many the world of the Middle Ages; but it applies equally well, indeed far better, to the society established by Diocletian and reinforced by Constantine and his other successors. In fact the high Middle Ages were a mecca of freedom and rapid advance in comparison to the society of the late empire.

By the late empire, the prevalence of slavery in the ancient world had diminished. But slavery was merely replaced by other forms of unfreedom. The technically free peasant of the late empire, the *colonus,* is not distinguishable from the serf of later centuries. Like the medieval serf, the Roman *colonus* owed a fixed proportion of his produce to the landowner, was obliged to give him a certain number of days of free service, and was obliged to dwell within the landowner's domain. *Coloni* were legally bound to the soil. In addition, they were likely to be crushed by taxes and on top of all this virtually enslaved by debt. A *colonus* who fled and was recaptured could be returned in chains like a slave.

Marxist rhetoric has sunk so deep into modern consciousness that we are apt to overlook the fact that oppression fell not just on the peasants but also on the landlords. Agricultural taxes were assessed according to acreage, not production; thus in bad years they were as high as in good years. Furthermore, landowners in the late empire became liable for increasingly onerous payments in kind to support the growing demands of the administration and the military. Their role was made as economically impossible as that of their tenants.

Diocletian radically expanded the civil service. The number of administrative districts was more than doubled, requiring a vast expansion of the Imperial bureaucracy. One can argue endlessly over whether the Roman people were better or worse governed before Diocletian. What is certain is that they were *more* governed after him.

A significant part of this new state activity was explicitly devoted to repression. Already under the "good emperor" Hadrian (117-138), the commissariat officials or *frumentarii* had given rise to a secret state police force.[17] Assisted by a network of informers, the secret police came to play a central role in the administration of the later empire.

Along with the expansion of the civil service went an expansion of the military. A dual governmental structure was created, in which the military administration of each province paralleled the civilian one. The number of troops was vastly increased, from around 300,000 to over 500,000, though the quality of many units seems to have been poor. The trend was to rely on barbarian auxiliaries.[18] The Roman citizen, whose quintessentially hard-bitten character in the republic had made it possible to win the empire, had become a soft and unreliable soldier.

Trade was subjected to ever-more-detailed state restrictions. This is by far the simplest and most plausible explanation for the decline in commerce that began in the first century A.D. and accelerated steadily throughout the remaining lifetime of the empire. Long-distance commerce, the lifeblood of ancient Mediterranean civilization, was replaced by a return to local production.[19]

The situation was no better with regard to trade with lands outside the Empire. At various times the government prohibited "the export of . . . wine, oil, grain, salt, arms, ivory, and gold."[20] Foreign trade, already in decline since the first century, shriveled to almost nothing.

To meet its rising expenditures from a shrinking economic base, the state resorted to a growing welter of financial manipulations. Deliberate inflation destroyed the currency. Even-

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tually the coinage became so worthless that the monetary economy which had sustained commerce for the previous thousand years disintegrated altogether. The ancient world went back to barter. Even taxes, which remained payable in specie after it had largely disappeared from commercial transactions, often become payable in kind, presumably because there was no other way to collect them. The legionaries, who originally had been paid so they could purchase food and equipment, were now issued food and equipment in lieu of pay, necessitating a vastly enlarged state supply system.

The state had long owned a system of manufactories to supply the court and army. This system was greatly expanded under Diocletian and his successors. The government directly operated an extensive network of wool and linen mills, dyeworks, embroidery ateliers, and possibly boot factories. People who sheltered runaway textile workers were liable to severe penalties, which are frequently articulated in the celebrated law codes of late antiquity.[21]

A system of munitions manufactories was set up on military lines. Each factory was organized as a regiment. The workers were ranked like soldiers, and like the soldiers they inherited their profession. To prevent them from escaping, they were branded. The workers in the government mints were subject to a similar system, and were branded on the arm.[22]

It is not to be supposed that the weight of oppression fell only on farmers and artisans. Middle-class life too became an intolerable burden.

In all periods, the organization of classical civilization rested on the city-state and its dominant middle class. The Roman municipal officers or *curiales* comprised in effect the upper middle class of the Roman towns or *municipia*. Under the empire, the *curiales* became personally responsible for the administration of their municipalities, and financially responsible for the collection of taxes required by the central government. Local office, once vied for as a mark of prestige and a fount of influence, came to be shunned. Economic success was directly penalized, for even a fairly modest fortune subjected its possessor to induction into the *curiales,*[23] a status which became virtually hereditary under the late empire.

Roman citizen and his wife.

Like the *coloni* and the workers in the state factories, the *curiales* were denied freedom of movement. If they migrated to a new town, they were liable for a double obligation, in both their new and former locations. The *curiales* were forbidden to join the civil service, the army, the Church, after it was established, and even the state factories. The fact that a member of the ostensibly governing class had to be *forbidden* to accept this latter employment, tantamount to slavery, suggests how low this class had sunk, and with it the towns it theoretically ruled. In the final act of this absurd drama, elevation to curial status came to be inflicted as a criminal punishment.

Commercial organizations fared no better than the municipalities. Like the guild which succeeded it, the Roman *collegium* was a cross between a trade association and a trade union. Merchants and artisans had organized themselves into *collegia* since the republic, but under the empire these organizations acquired a growing importance.

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The shipping associations provide a striking case of this trend. At first the government offered concessions to shippers; little by little these merged into demands. For example, tax concessions granted to the shippers under Claudius (41-54) later provided a lever to bring them to heel under Hadrian (117-138).[24] The general trend was for the *collegia* to become instruments of state control.

The system of *collegia* was not restricted to a few occupations or regions but became general throughout the empire. All trades were inducted into the system. Members were forbidden to change occupations. Their heirs inherited the same obligations.

In many trades, members were obliged to marry inside the guild. Such prohibitions were not absolute, however: for instance, a nonbaker was permitted to marry the daughter of a baker—provided he then became a baker himself.

It is easy to see that the ban on changing occupations made it impossible for the Roman economy to adapt flexibly to changing circumstances.

In return for accepting state control of their lives, people received sustenance—those who survived the famines, plagues, civil strife, and barbarian attacks. The inhabitants of Rome itself were the special beneficiaries of this state largesse. In addition to the free and the subsidized grain distributed since the republic, other food items became the objects of government concern. From the time of Septimius Severus (193-211), olive oil was distributed by the government free of charge. In the course of the next century, a pork ration became standard. Wine was also distributed free or at very low cost. The shippers, bakers, and hog merchants acquired official duties, becoming in effect direct servants of the state. They were obliged to buy, transport, and sell goods in quantities and at prices fixed by the state.

The result could be ruinous to the traders involved. For instance, shippers were obliged in the early fifth century to transport state cargoes in exchange for one per cent of their value—a remuneration that plainly could not have covered the costs incurred.[25] Under these circumstances, it is not surprising to discover that harsh laws sprang up against speculation, illicit trading, delay, and sabotage. Eventually membership in the *collegia,* like that in the *municipia,* was meted out as a criminal punishment—a bitter finish for organizations that in the end were able to serve neither the public nor the private good.

In some ways this mixed economy was crueler than a pure socialist system. The possession of property merely obligated an individual to work for the state. Individuals retained their property in theory, only to be held responsible for the crushing liabilities it incurred. Property, whether a baker's shop or a landed estate, could not be alienated by its owner. Often the compensation allotted by the state was grossly inadequate, the burdens onerous, death the punishment for avoiding them.

Thus long before the deposition of the last western emperor in 476, the *de facto* free market of the ancient Mediterranean had been replaced by a frozen society. With its secret police, branded workers, and coercive family legislation, Rome was the first totalitarian state.

Once the reforms of Diocletian were in place, the classical world had for all intents and purposes ceased to exist and a new world, that of the Middle Ages, had begun. The Dark Ages of Western civilization did not begin with the sack of Rome by the Visigoths in 410, but generations before with the self-strangulation of the Roman polity. The barbarians, who had been there all along, stepped into a vacuum created by the Roman state itself, not in spite but because of its might.

IV.
The End of the Ancient World

Over the past generation it has become fashionable to downplay the catastrophic effects of the fall of Rome and to stress instead the continuity between classical and early medieval civilization. Rome, it is argued, did not fall catastrophically; elements of classical civilization persisted into later centuries. This schema is only partly correct. Rome was a very different place in 400 from what it had been in the time of Augustus. *Something* had happened in between.

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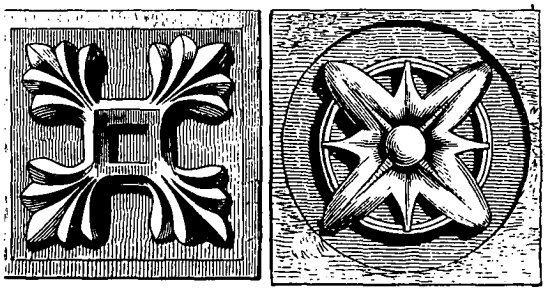

There *is* a major discontinuity between classical and Dark Age culture. But the source of discontinuity lies, not in the fifth century with the sack of Rome and the deposition of the last Western emperor, but in the first two centuries of empire, as the civilization of the ancient Mediterranean slowly disintegrated under the growing absolutism of the Roman state. By the end of Diocletian's reign in 305 A.D., the process had almost certainly passed the point of no return. It is not so much that the Dark Ages were more "classical," as that the Roman empire was more "medieval" than we have yet imagined.[26]

Only the most heedless moral relativism can blind us to the magnitude of the catastrophe this development represented. The destruction of ancient civilization was a veritable holocaust for the people of the ancient world, who died like flies amid the poverty and degradation of the period. It is fearsome to contemplate the broken dreams and shattered lives that lie behind the ancient reports of deserted farmland and the cold archeological maps of shrinking city perimeters. The survivors were glad to trade their freedom for work and bread, even if it meant living as branded laborers in regimented state factories.

As the curtain of the Dark Ages fell across the society of antiquity, it covered a civilization paralyzed in the East, shattered in the West; the currency worthless, trade at a standstill; learning forgotten, agriculture devastated; the countryside deserted, the cities empty, and military capacity so diminished that the once-warlike Romans would do little but cringe before successive waves of Germanic, Arab, and Scandinavian invaders. Sunk in poverty, tyranny, and ignorance, the West was not to rise again for centuries.

Only the re-emergence of the urban middle class in the decentralized trading states that sparked the Renaissance of the West would end the Dark Age culture of poverty and permit intellectual, economic, and cultural progress to begin again. Before that could happen, the remnants of the Roman Empire would undergo yet further fragmentation under the cruelly repeated hammer blows of the barbarian invasions, the Arab and Viking conquests, the Crusades, and the devastations of the Turks and the Mongols.

V.
Why Rome Fell

Rome was never a democratic or individualist society. But power under the republic was highly diffused. Consuls, senate, tribunes, and tribal assemblies shared influence in the early Roman state. The destruction of the independent power centers and the resultant concentration of power in the hands of a single ruler and his direct subordinates was an ongoing process, which began in the late republic and culminated in the late empire. With the destruction of the centers of corporate power, the individual was left naked before the state.

The inability of the Romans to keep their government within functional bounds was a cumulative process. At each stage it became harder to retreat. Each new problem was met by an expansion of the functions of the state. Each such expansion created unexpected new problems, requiring a yet further extension of the scope of government.

In addition to increasing the power of the state, each new intervention created a constituency whose immediate self-interest turned it against constructive change. These privileged constituencies cut across social classes, from the senatorial aristocracy which forced the closing of mines to weaken the commercial middle class, to the shippers and tradesmen with their guild monopolies, to the Roman mob with its entitlement of free bread, wine, and pork.

By the time the process had reached its logical conclusion under the late empire, a republic had been reduced to a despotism, a dy-

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namic and growing polity to a static and shrinking one, and while millions had grown up amidst prosperity, millions more would perish through famine, plague, and outright massacre.

Conclusions

Three conclusions follow from this discussion.

First, the principles of the market are universal to complex economies that depend on trade and manufacturing. They did not arise from the genesis of a mystical entity called "capitalism." Though masters of war and engineering, the Romans lacked a science of economics.

Second, societal suicide is not the only possible outcome of unfreedom. The Greek East, with its long-established commercial traditions, proved more resistant to state absolutism than the Latin West. The crippling of enterprise which opened the western empire to destruction opened instead the eastern empire to a long stagnation. Surrounded by tributary lands, the Byzantine empire lasted for a thousand years. The Byzantines mastered the art of police, enabling a subject population to be held in check regardless of changes at the top. Defended by impregnable walls and the secret formula for "Greek fire," a primitive napalm, Byzantium fell only with the development of a new technology, the cannon with which the Turks shattered its walls in 1453. But the eastern empire did not altogether perish. Its principles of government and diplomacy moved north to the kingdom established by the lords of the Rus Vikings. After the sack of Byzantium, their successor, Ivan III, married the niece of the last eastern emperor and proclaimed a "New Rome" in Moscow.

Finally, the quandary posed by Edward Gibbon can at last be answered. Any society subject to the same restrictions as the Roman Empire would speedily fall into economic stagnation and cultural decadence. Ancient civilization was destroyed by unrestrained statism, which flourished in the absence of a principle of individualism. Modern civilization will not fall, because it has discovered the intimately related principles of commercial vitality and individual freedom. Will not fall, that is, unless those who ignore the lesson of the ancient suicide of the West triumph, opening the way to the new barbarians. □

1. Pre-twentieth century liberal interpretations of the decline of Rome emphasize political at the expense of economic factors. Recent liberal interpretations are rare, and most fail to bring out the connectedness of the various economic, political, and social aspects of the decline. The major exception is that of the Austrian economist Ludwig von Mises, who sketches the same interpretation as mine in *Human Action* (Third Revised Edition; Henry Regnery Co., 1966), pp. 767-769. A generally similar thesis is presented by Lawrence W. Reed in "The Fall of Rome and Modern Parallels," *The Freeman,* November 1979, pp. 647-652. For a compendium of interpretations, see Alexander Demandt, *Der Fall Roms* (Munich: C. M. Beck, 1984).

Modern works cited include W. L. Westermann, "The Economic Basis of the Decline of Ancient Culture," *American Historical Review,* v. XX, 1914-15, pp. 723-743; Louis C. West, "The Economic Collapse of the Roman Empire," in *Classical Journal* 28 (1932), pp. 98-106; André Aymard and Jeannine Auboyer, *Rome et son empire* (Paris: Presses Universitaires de France, 1954); A. H. M. Jones, *The Later Roman Empire* (Norman: University of Oklahoma Press, 1964); F. W. Walbank, *The Awful Revolution* (Toronto: University of Toronto Press, 1969); and Arthur Ferrill, *The Fall of the Roman Empire: The Military Explanation* (London: Thames and Hudson, 1986).

2. Walbank, pp. 71, 77.
3. *Republic,* II.
4. Cf. Westermann, p. 734: "[W]e have in the Greek world, from about 700 B.C., the development of cities with a wide expansion of industry and transmarine trade between the farspread Hellenic city-states such as, quantitatively, the world had never before seen."
5. See West, p. 98, for a summary of the beneficial effects of Imperial pacification on commerce.
6. Cicero, *De officiis,* i, 150-51; after Walbank, p. 43.
7. Walbank, p. 44.
8. See Aymard and Auboyer, p. 152.
9. A parallel trend for industry may be suggested by the gradual shift of the center of blown glass production—a major industry—from Sidon and Alexandria to Campania, thence to Gaul, and subsequently to Cologne on the Rhine frontier—in other words, from the least to the most barbaric parts of the empire. In Italy itself, both agricultural and industrial activity declined very early. For these points, see West, p. 100.
10. Walbank, p. 30.
11. Aymard and Auboyer emphasize the unprecedented centralization of capital in the city of Rome.
12. Walbank, pp. 48, 70.
13. On the decline of the slave population, see for instance Westermann, p. 740.
14. Cf. West, p. 101.
15. See Robert L. Schuettinger and Eamonn F. Butler, *Forty Centuries of Wage and Price Controls* (Washington, D.C.: Heritage Foundation, 1979), pp. 9-27, for a comparative discussion of Roman wage and price controls.
16. Cf. Aymard and Auboyer, p. 313.
17. Walbank, p. 63.
18. Eventually the army became numerically more barbarian than Roman. See Ferrill, p. 84.
19. See for instance West, p. 98.
20. West, p. 102.
21. Walbank, p. 79.
22. Jones, p. 835.
23. This appears to be the upshot of the discussion in Jones, pp. 738-739.
24. The remarks on the *collegia* are indebted to Walbank, pp. 70-73.
25. Walbank, p. 72.
26. For this reason, once we stop trying to see late antique culture with "classical" eyes and start looking at it with "medieval" ones, its atmosphere and aesthetic begin to fall into place.

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The Reincarnation of Jim Crow

by Clint Bolick

In its preoccupation with quotas, set-asides, forced busing, and other forms of social engineering, the contemporary civil rights establishment has ignored one of the most pervasive and debilitating deprivations of civil rights today—state-imposed barriers to entrepreneurial opportunities.

Such barriers take the forms of state-imposed business monopolies and occupational licensing laws. In many cases, such laws are an enduring relic of the Jim Crow era. Though they are no longer overtly racist, their effects are largely the same: they exclude from competition those outside the economic mainstream, primarily blacks and other minorities.

The quest to eradicate artificial barriers to economic opportunities occupied a central focus of the civil rights movement between 1866 and 1964, and was a principal motivation for civil rights legislation both at the beginning and end of that period. The movement's leaders—from William Lloyd Garrison and Frederick Douglass to Booker T. Washington and Martin Luther King—recognized that such barriers were inconsistent with the natural law foundations of America's doctrinal commitment to civil rights.

But during the past 25 years, the civil rights movement has shifted its focus from equality of opportunity to forced equality in result. In the process, it has transformed the concept of civil rights from those fundamental natural rights we all share equally as Americans into special burdens for some and benefits for others.

What these revisionists have forgotten is that the civil rights movement has always been about securing for individuals the right to control their own destinies. By advocating government-coerced proportional representation instead of the market, the civil rights establishment denigrates the very mechanism by which countless generations have earned a share of the American Dream. In effect, this establishment is consigning a vast portion of its purported constituency to a perpetual state of dependency and despair.

A reinvigorated civil rights movement, drawing upon the lessons of history and the natural law principles of fundamental individual rights and equality under the law, ought to dedicate itself to eradicating those barriers that artificially separate individuals from opportunities. In so doing, such a movement will eliminate the final impediments to a real, lasting emancipation.

These issues are not new. Following the Civil War and the abolition of slavery, plantation owners were faced with a desperate labor shortage. The intense competition for labor resulted in a 600 per cent increase in crop shares for black tenant workers between 1865 and 1875.

Southern leaders tried persuasion and peer pressure to limit black wages and opportunities, but such efforts were insufficient to counteract market forces. Whereupon, the former slaveholders turned to the coercive apparatus of the state to accomplish what they could not in a free market. "We must have a black code,"

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Southern theorist George Fitzhugh urged in 1868, to restore the natural order of "masters and slaves." He explained, "We do not mean by slavery such as that which has been recently abolished, but some sort of subordination of the inferior race that will compel them to labor, whilst it protects their rights and provides for their wants."[1] Couched in these benevolent terms, Fitzhugh's prescription was surely the earliest form of what has come to be known in recent years as "benign discrimination," the implicit premises of which reveal it, like all forms of racism, to be anything but benign.

Black Codes

Proceeding from these mutually reinforcing premises of inferiority and paternalism, Southern legislatures moved swiftly to restore as closely as practicable the feudal society that existed before the war. Eight states passed Black Codes between 1865 and 1867, extinguishing labor opportunities through a variety of legal restrictions.

Typical of the Codes was South Carolina's requirement that any "person of color" must obtain a license to engage in the "business of an artisan, mechanic, or shop-keeper, or any other trade, employment or business." The licenses cost $100, certainly a staggering sum for an ex-slave in 1865. Moreover, the licenses were valid only for one year; they required a showing of skill, fitness, good moral character, and an existing practice or apprenticeship; and they could be revoked upon any complaint of abuse. Thus was a servile labor supply ensured, quarantined from competitive market influences by state action.

Recognizing that these state laws were nullifying the gains of abolition, the radical Republicans in Congress acted to protect the economic rights of the freed slaves. They passed the Civil Rights Act of 1866, which established that all citizens "have the same right [to] make and enforce contracts, . . . to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws [for] the security of persons and property, . . . any law . . . to the contrary notwithstanding."

This economic bill of rights was vetoed by President Andrew Johnson, but Congress overrode his veto. Johnson warned that the Act was unconstitutional since it purported to regulate state affairs, leading Congress to constitutionalize the Act through the 14th Amendment. In addition to guaranteeing "due process" and "equal protection" under law, the Amendment provided that "[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States"—such as those protected by the Civil Rights Act.

This great promise of the 14th Amendment was never fully realized, however. The massive corruption of the Grant Administration, the disputed election of 1876 which led to the removal of Federal troops from the South, and the death of the great abolitionist leaders all contributed to the shift in national focus away from the plight of blacks in the South.

The Slaughter-House Cases

But the death knell for economic liberty as a component of civil rights was sounded by the Supreme Court in the *Slaughter-House Cases* in 1872, which read the "privileges or immunities" clause out of the 14th Amendment in much the same way as the equal protection clause was nullified by the Court in *Plessy* v. *Ferguson* twenty-four years later. *Plessy* was eventually overturned in *Brown* v. *Board of Education*, while *Slaughter-House* remains on the books today—yet its renunciation of economic liberty is no less profound a violation of fundamental civil rights than was the pernicious "separate but equal" doctrine.

Slaughter-House involved a challenge to a Louisiana law that established a slaughterhouse monopoly and prohibited competition in that trade. The law was challenged by a group of butchers who asserted their liberty under the 14th Amendment to engage in a profession free from arbitrary or unequal state laws. But the Court upheld the law by a 5-4 decision that rendered the "privileges or immunities" clause a dead letter.

Justice Stephen J. Field denounced the decision, "for by it the right of free labor, one of the most imprescriptible rights of man, is violated." Another dissenter, Justice Noah H.

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Justice Stephen J. Field
(1816-1899)

Swayne, expressed the "hope that the consequences to follow may prove less serious and far-reaching than the minority fear they will be." His fears proved prescient, however, as the Court's abdication of its constitutional duty opened the floodgates for state regulation of economic activity so stifling and pervasive as to make the Black Codes seem mild by comparison.

Jim Crow Laws

Unencumbered by constitutional restraints, the Southern legislatures passed the Jim Crow laws, an elaborate and interwoven tapestry of social and economic restrictions that destroyed the ability of blacks to improve their condition.

In particular, four principal varieties of laws were adopted to restrict mobility and frustrate competition. The so-called "contract enforcement" laws strictly limited the times during which laborers could seek new employment. Vagrancy laws discouraged mobility by making it unlawful to be unemployed. "Emigrant-agent" laws restricted the activities of labor recruiters. And "convict leasing" laws created a system of "debt peonage," by which blacks who were imprisoned for debts were furnished to employers who would assume their obligations until the debts were repaid.

The Jim Crow laws thus represented a transparent device to assure a servile and inexpensive supply of labor, relegating blacks to a separate, subordinate caste. The lesson of Jim Crow, as Professor Jennifer Roback concluded in her study of market interferences during that period, is that "government, not private individuals . . . must be restrained in order to allow disfavored minorities to make substantial economic progress."[2]

It took the better part of a century for the civil rights movement—holding tenaciously to the natural rights underpinnings of the traditional American civil rights vision—to convince the nation to make good on its basic commitment to equality under law.

A major thrust of the civil rights movement's traditional program, from Booker T. Washington's emphasis on economic self-sufficiency to the demands for equal opportunity following World War II, was to gain for blacks the right to compete freely for their share of the American Dream. Morris Abram, former vice-chairman of the U.S. Commission on Civil Rights, explains that the movement's leaders understood that "removing all barriers to the exercise of an individual's ability to participate in a free market system is the best possible way to promote justice."[3] Such efforts reached their pinnacle in the golden decade for civil rights, spanning from the *Brown* decision in 1954 to the adoption of the Civil Rights Act of 1964.

But in some respects the movement did not go far enough. Laws that were racist either overtly or in their intent were struck down, but barriers to entrepreneurial opportunities that had the same effect remained in place—indeed, they proliferated dramatically. Traditionally, newcomers to America had been free to apply their skills and ingenuity to virtually any profession or business—a hallmark of America's free market system. But for today's "economic newcomers"—blacks, Hispanics, and immigrants—these traditional mechanisms for entry into the mainstream are often foreclosed by the state.

George Mason University economics professor Walter Williams explains that

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> black handicaps resulting from centuries of slavery, followed by years of gross denials of constitutional rights, have been reinforced by government laws . . . that govern economic activity. The laws are not discriminatory in the sense that they are aimed specifically at blacks. But they are discriminatory in the sense that they deny full opportunity for the most disadvantaged Americans, among whom blacks are disproportionately represented.[4]

Such economic regulations implicate civil rights in two ways. Where they arbitrarily restrict an individual's ability to engage in a business or vocation, they constitute an infringement of the fundamental individual liberty that is the essence of civil rights. And where they limit competition in the market to a certain number or group, they violate the principle of equality under the law.

More than ever before, government at every level is violating civil rights by erecting barriers to free participation in the market, denying to many outside the economic mainstream the ability to compete that is every American's birthright. The two principal types of barriers are occupational licensing laws, the modern equivalent of those enacted in the Black Codes; and government-imposed business monopolies, successors to the type of monopoly upheld in the *Slaughter-House Cases*.

Occupational licensing laws regulate entry into a large number of occupations, covering fully 10 per cent of the labor force. California alone licenses 178 different occupations. Licensing laws are typically sought by members of the affected profession, ostensibly to protect public welfare and safety, but in reality to limit competition. Such laws often limit entry into occupations with only the most peripheral impact on public health or safety, such as auctioneers, photographers, pool cleaners, and taxidermists.

And even where a legitimate justification may exist for some regulation, licensing laws are commonly crafted so broadly or arbitrarily as to go well beyond such objectives, thereby restricting supply rather than ensuring competency. Moreover, the laws are often enforced by the affected industry itself, with the coercive

Booker T. Washington (1856-1915) encouraged economic self-sufficiency.

apparatus of the state at its disposal: using "grandfather clauses"—another favorite device of the Jim Crow era—to protect incumbents against the arbitrary new legal requirements.

These laws are devastating to blacks and other minorities. A case in point is licensing requirements for beauticians and cosmetologists in Missouri, recounted by Dr. Williams in *The State Against Blacks*. As a threshold requirement, the state requires 1,220 hours of formal training or 2,440 hours of apprenticeship under an approved cosmetologist. Thereafter, prospective beauticians and cosmetologists must pass both a practical and written examination. The latter tests not only knowledge related to the profession, but such esoteric concerns as the chemical composition of bones.

In a recent examination, Dr. Williams reports, black candidates passed the performance portion, demonstrating their competency to practice their profession, at the same rate as whites. As for the written component, however, blacks comprised only 3 per cent of those who passed but 21 per cent of those who failed. Thus, a vastly disproportionate number of black beauticians and cosmetologists were dis-

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qualified for no apparent reason from pursuing occupations for which they were demonstrably qualified. Similar deprivations of individual liberty are visited wherever an arbitrary licensing law stands in the path of business opportunities.

Likewise, state-imposed monopolies needlessly frustrate the ambitions of would-be entrepreneurs in businesses running the gamut from hot-dog pushcarts to cable television companies. Perhaps the most flagrant species of such protectionist legislation is taxicab franchising, which in cities across the nation stifles opportunities to begin climbing the rungs of the economic ladder through a low-capital business.

A few examples illustrate this phenomenon. In Washington, D.C., the taxicab market has virtually open entry, with only safety and insurance requirements and a $25 annual fee required to start business. Accordingly, the market provides substantial entry-level business opportunities for blacks and immigrants, with the result that 70 per cent of all Washington cabs are owned by blacks.

But this is the exception to the rule. In New York City, for instance, a "medallion" is required to own a cab, and none have been issued since World War II. As a result, the "market" value of medallions has risen to $100,000—totally precluding taxicab ownership as a viable entry-level entrepreneurial opportunity. In Philadelphia, meanwhile, taxicab licenses are issued by the Public Utilities Commission for only $20—but only upon a showing of "public convenience and necessity," which is routinely contested by industry lawyers retained solely for that purpose. Thus, the real cost of a transferable license on the market turns out to be approximately $20,000.

The impact of taxicab franchising on opportunities is staggering. While nearly two thousand blacks own cabs in Washington, for instance, only 14 blacks own cabs in Philadelphia. Instead, blacks in New York, Philadelphia, and most other cities work as employees for other people, thus diminishing prospects for economic advancement. Moreover, the artificial limits on market entry translate into higher prices and fewer cabs, the burdens of which are most heavily borne by ghetto consumers.

All of the interests asserted in defense of occupational licensing and state-imposed business monopolies can be served in ways far less devastating to individual opportunities. Consistent with a proper understanding of civil rights, governmental entities should be compelled to pursue less-harmful alternatives.

The failure of the civil rights establishment to confront these concerns presents a golden opportunity for advocates of individual liberty to recapture moral leadership in the realm of civil rights.

Methods of challenging barriers to economic liberty are limited only by the imaginations of their architects. One possibility is to press for a federal Economic Liberty Civil Rights Act that would forbid state and local governments from arbitrarily restricting entrepreneurial opportunities. Another is to challenge such barriers in the courts as violations of civil rights, with the ultimate goal of erasing the *Slaughter-House Cases* from American jurisprudence and restoring judicial protection for economic liberty.

Other modern deprivations of civil rights also demand attention. The monopoly public educational system, for example, disparages educational liberty in a manner particularly devastating to minorities and the poor, who have no other alternatives. The vicious cycle of poverty and despair, fueled by our welfare system, is yet another example of government depriving individuals of the right to control their own destinies.

Advocates of individual liberty can refashion the terms of the civil rights debate by exposing these types of governmental programs and policies as deprivations of civil rights. Such an effort will restore vigor to the traditional meaning of civil rights—and the natural law principles undergirding those rights—upon which America's moral claim is staked. □

1. James M. McPherson, *The Struggle for Equality* (Princeton, NJ: Princeton University Press, 1964), p. 302.
2. Jennifer Roback, "Southern Labor Law in the Jim Crow Era: Exploitative or Competitive?" *University of Chicago Law Review*, vol. 51 (1984), p. 1192.
3. Morris Abram, "Affirmative Action: Fair Shakers and Social Engineers," *Harvard Law Review*, vol. 99 (1986), p. 1326.
4. Walter E. Williams, *The State Against Blacks* (New York: New Press, 1982), p. 125.

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Jamaica: No Free Market, No Miracle

by James Bovard

In 1980, advocates of the free market, limited government approach to development and growth predicted that Jamaica would soon become the "miracle of the marketplace" and the "Singapore of the Caribbean." Prime Minister Edward Seaga, who was elected by a landslide only five days before President Reagan's election, promised to roll back government control and allow new freedom for entrepreneurs.

Since 1980, this small island with a population of barely two million has received over $2 billion in foreign aid as Washington, the World Bank, and the International Monetary Fund (IMF) tried to insure Seaga's success.

But, Seaga's efforts at promoting an economic revival have been a dismal failure. Jamaican living standards are no higher now than they were in 1980 when socialist Michael Manley was voted out of office. The country's foreign debt has tripled, unemployment is still over 25 per cent of the labor force, the inflation rate has been in double digits since 1980, and the Jamaican dollar has lost two-thirds of its value against the U.S. dollar.

Critics of market-based development are beginning to cite Jamaica as the case which proves that "Gang of Four" (Hong Kong, Taiwan, South Korea, and Singapore) Asian-style capitalism cannot be exported and that the free market works only in certain limited places and under special conditions.

But this only confuses rhetoric and reality. While Seaga preached free enterprise, his government practiced the opposite. In fact, state control of the Jamaican economy has increased since 1980. For instance, the Jamaican government has bought an oil refinery, hotels, and an aluminum smelting plant; it has created numerous new state farms, increased interference in various sectors of the economy, raised taxes to their highest levels ever—and it has done little to rescind paralyzing bureaucratic control over foreign investment. Rather than a failure of the free market, Jamaica in the 1980s is another failure of state-directed economic development.

In 1980, when Seaga took office, the Jamaican economy was in a shambles. During the late 1970s, gross domestic product fell 20 per cent, a third of Jamaica's professional and managerial class emigrated, and Kingston, the capital city, was starting to resemble Berlin in the 1920s—with daily gun battles in the streets between different political gangs. Over 800 people were killed in election-related violence in 1980—a higher proportion of the population than America's battle deaths in the entire Vietnam war. All foreign observers agreed that Jamaica's exchange rate was overvalued and that the public sector was replete with inefficient, overstaffed, state-owned enterprises that

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were dragging down the island's economy.

According to Mark Rickets, a managing director of Security Brokers in Kingston, the influx of easily available foreign aid "though well-intentioned, was essentially flawed, for it provided a fiction, a false hope that Jamaica could spend money and enjoy the original promises of Seaga. As a result, the process of adjustment was not undertaken." (quoted in "Jamaica: Limits of a Showcase Policy," *SAIS Review,* Summer/Fall 1985)

More Intervention

The Jamaican government increased intervention almost from the day Seaga was elected. In 1981, the government established the Jamaican Commodity Trading Corporation with sole import rights over cars, drugs, food, and other items. The Agricultural Credit Bank was created to provide aid to farmers who were approved by government planners, and a National Credit Bank was established to allow government to distribute investment capital to approved business ventures.

In the first few years of the new administration, Jamaica maintained its overvalued exchange rate. In early 1983, the official exchange rate for basic imports of food, drugs, and educational supplies, and for servicing the foreign debt was 1.78 Jamaican dollars per U.S. dollar. At the same time, the parallel market rate for other imports was around three Jamaican dollars per U.S. dollar. The overvalued exchange rate reduced the international competitiveness of Jamaican exports while reducing the price of imports. This had a severe negative impact on Jamaican manufacturers and farmers. At the same time that the government was increasing aid to Jamaican farmers, it was effectively subsidizing the import of foreign food—thus destroying Jamaican farmers' markets.

The primary result of the flood of aid was not a revival of manufacturing, but a foreign debt that, on a per capita basis, now exceeds that of Mexico and Brazil.

Jamaica is blessed with an abundance of fertile agricultural land. But inept government marketing organizations and inefficient state-owned enterprises have crippled the island's farm industry. For example, despite its superb climate for sugar production, the island actually had to import sugar from the U.S. in 1981. (*Quarterly Economic Review,* No. 1, 1982, p. 15) Sugar production has fallen from 500,000 tons a year in the late 1960s to the present rate of around 200,000 tons a year. Most of the sugar is grown on government-owned plantations which are renowned for being among the least efficient sugar operations in the world. Under intense pressure from the IMF, Seaga finally agreed to contract with a foreign firm to manage the government's sugar estates. This has brought a slight increase in output, but the industry is still heavily politicized and the sugar workers' union remains an obstacle to efficient production.

Bananas, another traditional Jamaican crop, have fared no better. Banana production fell to a 20-year low in 1984. That year, the government planned to export 150,000 tons of bananas to the United Kingdom, but barely 30,000 tons were shipped. The source of the industry's problems is the Banana Marketing Organization, a government-run bureaucracy. A 1985 World Bank report concluded: "While production is expected to rise, government remains in firm control of the sector." (*Jamaica: Economic Situation and Public Investment,* Washington, D.C.: International Bank for Reconstruction and Development, April 1985)

Despite the failure of the government's involvement in agriculture, Jamaica responded to falling agricultural production by launching a massive new government program—AGRO 21—to control, finance, and direct new agricultural development. Through AGRO 21, the government is now involved in the production of macadamia nuts, hearts of palm, aloe vera, beef, coffee, and other commodities. According to recent reports in Kingston newspapers, AGRO 21 has produced one spectacular failure after another.

When the Seaga government took office, government-controlled food prices were kept artificially low in order to curry favor with urban voters. Although this practice was discontinued, the artificially low exchange rate effectively continued the cheap food policy. Until 1984, Jamaica did little to boost prices paid by government to domestic producers. But, with

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foreign aid, Seaga set up a food stamp program that now is feeding almost half the island's population. Carl Stone, a professor at the University of Jamaica, observed, "The existing food stamp program is a mockery to any real commitment to local agriculture. Our poor people are being subsidized to buy imported food when our farmers can't sell their produce because of low levels of consumer buying power." (quoted in "Jamaica: Limits of a Showcase Policy," *SAIS Review,* Summer/Fall 1985)

Free or cheap food has poured in from abroad in recent years, and this has had the usual disincentive effect on local agricultural production. As Scott D. Tollefson reported in the Summer/Fall 1985 *SAIS Review:*

> An example of the disincentive created by P.L. 480 [a U.S. law under which agricultural surpluses are shipped to developing nations] to Jamaican food production occurred in late July 1984 when Jamaica experienced a shortage of rice, the major staple, which lead to a near-crisis situation politically. The market mechanism worked with clock-like precision as small farmers, attracted by increased prices for rice substitutes, rushed their goods to the market. Days later, 4,780 metric tons of rice were imported under P.L. 480, the first parcel of an allotted 16,000 tons costing U.S. $5 million. The imported rice sent the prices of substitutes tumbling, thereby hurting the local producers.

Recently, the People's National Party accused Seaga's Jamaica Labor Party of "blatant political misuse" of foreign food donations. According to the People's National Party, the Labor Party used the food to buy political support. Labor Party members of Parliament were given caches of food to distribute—and thus make voters ever grateful (*Daily Gleaner,* March 13, 1987).

In response to IMF pressure, the government has nominally deregulated the retail prices of several major food items. But a recent controversy over milk prices shows how the Jamaican government still exerts economic controls. (The following facts and quotes are from the *Daily Gleaner,* October 10 and 12, 1985.)

With inflation running at high levels, milk processors boosted their retail prices by 30 per cent in October, 1985. This provoked a denunciation by Karl Samuda, the Minister of State in the Ministry of Industry and Commerce. The government retaliated against the milk processors by reducing "by 80 percent the sale of milk powder to distributors who the Government believes were selling to wholesalers who then made the powder available to processors."

This is a perfect example of how, in a mixed economy with rampant government protectionism and subsidies, government can put the squeeze on a group it does not like. When milk prices were deregulated in 1984, "an arrangement had been reached . . . for processors, farmers, the Consumer Affairs Divison of the Ministry of Industry and Commerce, and retailers to sit together and decide on any price increase and how it was to be shared among all the sectors involved." The controversy arose when the milk processors raised prices without first asking permission.

Credit Controls

The Jamaican government has also intervened in the credit market. In 1985, to reduce consumer spending and placate the IMF, the government imposed strict credit controls, thereby following the usual central planning strategy of sacrificing consumers to producers. Seaga even bragged in his 1985 budget speech that the new controls had made it very difficult to purchase major consumer items. Jamaica exemplifies the classic case of a government trying to correct the effects of intervention—a perpetually overvalued exchange rate that effectively subsidizes consumer purchases—with another intervention.

But, it is a hopeless cause. The new credit controls are hurting Jamaican manufacturers and undercutting their exports. A recent Agency for International Development (AID) report notes that Jamaican manufacturing exports were being constrained by "the relatively stringent credit restrictions being employed to restrain demand." (AID, Program Assistance Approval Document for $34.5 million additional Economic Support Fund loan, June 1985, p. 4)

However, no such austerity is being applied

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to government. Jamaica has used some of the foreign aid windfall to add to its long list of properties. The Jamaican government has bought several hotels. A scandal erupted in 1982 when the government bought the Terra Nova Hotel, a leading Kingston hotel and restaurant, for an amount far exceeding the highest private valuation of the property.

In 1983, the Jamaican government bought an oil refinery. Exxon had complained that it could no longer operate its refinery in Jamaica without higher profits. The government, instead of relaxing its price controls on petrol prices, took over Exxon's operation and has since been losing money at a rapid rate. But, despite the government's efforts, gas and petrol prices have skyrocketed, largely as a result of the collapse of the Jamaican dollar.

The Jamaican economy also has been hurt by the decline of the bauxite and aluminum industries. In 1974, the government imposed a 600 per cent levy on pre-profit bauxite exports. In the early 1980s, due to the combined impact of continued heavy taxation and a depressed world bauxite market, three foreign bauxite producers in Jamaica either closed down or greatly reduced their operations.

In 1985, the Jamaican government tried to solve the problem by setting up its own company, Clarendon Aluminum Production Ltd., "to produce aluminum with the existing facilities under a lease contract with ALCOA." (Quarterly Report of the Planning Institute of Jamaica, September 1985, p. ix) Despite the surplus of aluminum in the world market, the Jamaican government in 1984 entered into a joint agreement with the government of Colombia to construct a huge aluminum smelter in that country. The project will cost around $500 million, and will not be fully operational until 1990. As The Economist Intelligence Unit observed, "The likelihood of failure must be rated high in view of the current surplus aluminum smelter capacity stretching well into the 1980s."

Privatization has long been a rallying cry among advocates of market-based development. Though Jamaica has sold off a few small companies, most large companies remain under political control. The government has refused to consider divesting Air Jamaica, the National Commercial Bank, the Jamaica Telephone Company, or any of its many hotels and extensive land holdings.

Instead of divesting, Air Jamaica just bought a Concorde jet. An Air Jamaica official recently admitted, "We didn't really expect to make any money on Concorde." The supersonic is supposed to give the government status —while it loses money. In the past 18 years, Air Jamaica has lost $215,719,000 (Jamaican dollars).

Housing Controls

Housing finance is another area that remains effectively nationalized. The National Housing Trust, the main source of mortgage funds, is financed by a five per cent payroll tax. At the same time, as a recent World Bank report notes, "A ceiling on private mortgage lending rates has been maintained below market interest rates." ("Jamaica: Economic Situation and Public Investment," April 1985) AID funds have poured into the government's housing programs, thus stifling the development of private financing. The government also recently reimposed rent controls—one more blow to private housing.

AID recently gave the Jamaican government an additional $15 million to rebuild housing in Kingston. Sara Frankel, AID's Chief of Regional Housing and Urban Development for the Caribbean, contended that the private sector was not aggressive enough to take "a piece of the action." (*Daily Gleaner*, February 2, 1987) First our foreign aid agency helps disrupt the local housing market—then it scorns the private sector for not jumping into the resulting mess.

The Jamaican government also has instituted several job-training and job-creation programs. It imposed a new three per cent payroll tax to finance a program aimed at preparing people for jobs in the public and private sectors. In 1985, the government used $15 million from AID to set up a second program to provide self-employment and training for approximately 10,000 young people annually.

In this second progam, the government is giving away sewing machines, urban vending carts, and other equipment to individuals of

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whom the government approves. As the *Daily Gleaner* (November 28, 1985) reported, Seaga "said that in view of the unattractiveness of various containers being used by street vendors, the government wished that [the new program] would lead the way in creating a new look for vendor packaging and upgrading the state of that trade." Through this program, government-favored small businesses will be able to drive their unsubsidized competitors out of business.

Jamaicans have been further hurt by new taxes. The *Daily Gleaner,* which is generally perceived as a conservative newspaper and which supported Seaga in 1980, recently editorialized: "The government has imposed additional taxes which drive real incomes of the average worker to sheer subsistence levels." (January 31, 1986) Among the new taxes is a $25,000 (Jamaican dollars) fee for the issuance of a shop operator's license and a shop operator agency permit. This has a devastating effect on the creation of small businesses which, as most studies indicate, create far more new jobs than their larger competitors. The new shop operator's tax, equal to more than double the national per capita income, closes the doors of opportunity for all but the rich and upper-middle classes.

Shortly after Seaga took office, a committee of businessmen was established to promote foreign investment in Jamaica. At the time there was wide agreement by both U.S. and Jamaican government officials that foreign investment was the key to Jamaica's prosperity. But since then, very little investment has occurred. As AID recently noted:

> The perception persists that the Jamaican government is a serious obstacle to investors. . . . The present regulations governing investment and the associated bureaucratic structure appear to be vestiges of a centrally-planned economy. This is reflected in the requirement for government review and approval of plans with respect to the technology to be employed, the pace of expansion of production capacity, product mix, source of raw materials, and location of operations. In a market-directed economy, these decisions would be governed by relative prices, rates of return and cost. Thus the application process itself suggests a government bias against private decision-making in the economic realm. (AID, Economic Support Fund loan, June 1985, p. 27)

Investors are obliged to seek approvals, licenses, and documents from various ministries. According to AID, "These requirements reportedly are not uniform and the basis for decisions as to which requirements apply to particular investors and for granting or withholding approval, are often discretionary. . . . Predictably, major last minute surprises often emerge under this system."

Investment is also discouraged by frequent labor disputes and high minimum wages. In 1984, despite a 25 per cent unemployment rate, the government doubled the minimum wage. Yet, the higher minimum wage almost guarantees that unemployment will stay high or go higher.

Conclusion

As the *Daily Gleaner* editorialized at the end of 1985, "It is true that in 1985 the government failed to take the promise of deregulation far enough. The free rein promised to private entrepreneurship is still not evident as the government retains control of much of the economy. Indeed, the painful adjustment felt during the year has been aggravated by the public sector's continued hold on sectors of the economy, limiting the scale of private sector investment and expansion."

The Seaga government, like every Jamaican government since independence in 1962, is trying to run this little island of 2 million people as a separate continent, encouraging domestic production, import substitution, and local manufacturers—a nationalistic approach to economic affairs. Autarky is still the dominant economic policy in Jamaica.

Jamaicans are known as excellent entrepreneurs everywhere in the world except in Jamaica. Unfortunately, the Jamaican government perpetuates the paralyzing restraints on its citizens' business ability. And as long as the government continues to destroy private initiative, Jamaica will continue to be a poor and frustrated country. □

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Native Americans: Victims of Bureaucracy

by Michael Adamson

Despite the individual rights to life, liberty, and property upon which the United States was founded, significant violations of these rights have not been uncommon throughout our history. The U.S. Constitution originally condoned slavery and counted the black slave as a mere three-fifths of a person for purposes of determining representation. Japanese-Americans were interned by the thousands in concentration camps during World War II because many citizens and politicians of European descent considered them something less than American and therefore potential subversives. For decades, state laws limited the property rights and freedom to contract of women in marriage as well as their right to vote. Until the Civil Rights movement, areas in the South practiced a limited form of apartheid, segregating whites and blacks in schools and other public places.

Yet no group of people has suffered, and continues to suffer, from an illiberal and discriminatory government policy as have the 1.4 million people collectively referred to as Native Americans. As the nation commemorates the 200th anniversary of the United States Constitution, it behooves us to examine the Indian policy of our government.

The Bureau of Indian Affairs is the principal agent in carrying out the government-to-government relationship between the United States and Federally-recognized Indian tribes, and is therefore the focus of this paper. This agency is unique in that it is the only Federal agency whose expressed function is to manage the affairs of a particular ethnic group.

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From Conquest to Control

By any criterion, the economic and social standards of living are lower among Native Americans than among the balance of the U.S. population. Unemployment on or adjacent to reservations fluctuates around 40 per cent. Of some 750,000 Native Americans on reservations, 75 per cent earn less than the national average.[1] Leading causes of death among Native Americans are accidents, heart disease, malignant neoplasms, and cirrhosis of the liver, all far above national averages and a significant proportion of these related to alcohol abuse. Drug abuse, mental illness, and obesity are major health problems. Tuberculosis cases are 4.5 times the national average and deaths from the illness are 9.5 times as frequent. Suicide is more than twice as likely among Native Americans. Their life expectancy is about five years below the average American's and infant mortality rates are 25 per cent higher.[2]

While such facts may illustrate the plight of the Native American, they do not explain why such conditions exist. I will argue here that they exist primarily because bureaucratic management is no more appropriate (and yields equally disturbing results) for a group of people defined by race than for a group of people defined by occupation, sex, region, or any other demographic characteristic. U.S. Indian policy is all the more offensive as it is perpetrated by

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one race of people upon another. Indeed, a Native American is defined by blood percentages, leading Russell Means, head of the American Indian Movement, to comment that only Nazi Germany "defined purity of blood as a measure of who you are as an individual."[3]

Bureaucratic Management

The Bureau of Indian Affairs is a bureaucracy. As a public sector organization, it is disciplined by laws, regulations, and government budgets. This form of management is in contrast with profit management, which is disciplined by the rules of the marketplace and the buying decisions of sovereign consumers.[4]

Because bureaucracies are not disciplined by profits and losses, the only way to restrict bureaucratic spending is with detailed rules and regulations. In a bureaucracy, the premium is not on flexibility, but control of appropriated public funds.[5] Thus, the bureaucratic features of government are inherent in bureaucracy itself—they cannot be "reformed" away. The only choice is between profit management and bureaucratic management.[6]

In the case of Native Americans, the government has chosen the latter path, and only rarely has this path been benign. The history of U.S. Indian policy is one of conquest of an indigenous people by foreigners who viewed themselves as superior. Until the 1960s, the official goal of this policy was assimilation, which ignored cultural reality and left a legacy of poverty, disease, and broken traditions.[7]

Article 1, Section 8 of the United States Constitution declares that "Congress shall have power . . . to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." The latter were thought of as separate nations to be dealt with through treaties in accordance with international law. Their affairs were not to be intruded upon and relations were to be conducted by the central government.

In reality, Congress established criminal jurisdiction and economic surveillance over the Native Americans so that their freedom to make decisions was gradually reduced. As S. Lyman Tyler notes, as "Indian leaders were no longer free, they could no longer be truly responsible."[8] Policy ultimately was to have white settlers expand territorially and have the Native Americans withdraw; conquest would be restrained and governed, not prevented.

With the Indian Removal Act of 1830, a formal removal policy was enacted. The so-called Five Civilized Tribes of the Southeast were marched on the "Trail of Tears" to land which is now Oklahoma.

As a practical measure, removal and conquest gave way to a reservation policy. On the reservation, the Native American was to be taught "the arts and habits of civilization."[9] The role of traditional leaders was bypassed and made ineffective. This policy of relocation and cultural restructuring destroyed initiative, self-reliance, integrity, and spirit. The need and responsibility for providing one's food and shelter was taken away. Native Americans were made wards of the government.

From 1887 to 1934, Native American land holdings shrank from 135 million acres to 40 million acres under an allotment policy which gave individuals 40- to 160-acre plots as their own property. Scandals resulting from the acquisition of oil leases and forest lands were rife. Rather than become farmers through land ownership, many individuals sold off their allotments and consumed their wealth.

The Indian Reorganization Act of 1934 initiated efforts to revive functional tribal governments. However, when tribes tried to exercise their rights of self-determination under this Act, bureaucrats obstructed them by restricting tribal use of resources.[10]

The passage of House Concurrent Resolution 108 established a policy of termination in 1953. Congress intended to make Native Americans subject to the same laws and privileges as other Americans (though the question of their dual citizenship under a 1924 act remained unresolved). Termination Acts passed from 1954 to 1962 affected 60 California and Oregon tribes and hundreds of smaller bands. This policy failed, as the Indians, who had been subjected to the almost wholesale destruction of their culture, were unable to function in the modern, Anglo-dominated environment.

By 1970, President Nixon announced a policy of self-determination, which recognized

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the rights of Native Americans to be different and to determine their own future. President Reagan reaffirmed this policy in 1983, but criticized its implementation as having been no more than rhetoric. Excessive regulation and a self-perpetuating bureaucracy had stifled local decision-making and fostered tribal dependency.[11]

The conclusion one may draw from this assessment is that the excessive regulation and the stifling bureaucracy should be eliminated. President Reagan stopped short of this, however, and today the Federal bureaucracy still dominates the conduct of Indian affairs through subsidy, if not outright control.

The Consequences of Management

The mission of the Bureau of Indian Affairs is to act as the principal agent in carrying out (1) the government-to-government relationship between the United States and Federally-recognized Indian tribes and (2) the responsibilities of the United States as trustee for the property it holds for tribal units.

The second point is curious, as it has more or less developed as a self-proclaimed and self-sustained doctrine shrouded in the legal and moral obligations the U.S. government established for itself toward the Native American. The legality of this is based on the 1831 Supreme Court decision in *Cherokee Nation v. Georgia*, where the Court held that Indian tribes have all the rights of sovereignty except those taken away or limited by Congress. This decision was "a direct outgrowth of English law and practice which held that title to newly-discovered lands was in the Crown . . . but subject to a compensable right of occupancy by an aboriginal people."[12]

It is true that Native Americans have done nominally better under self-determination. From 1972 to 1977, Indian-owned businesses increased 300 per cent, principally in oil and gas, forestry, and bingo. Control over local community issues is more in the hands of tribal governments. Yet, the Bureau of Indian Affairs holds its position that it should be a provider of resources and protector of tribal interests. And as any self-respecting bureaucratic agency would be expected to do, the Bureau seeks to expand the dollar volumes of the programs for which tribes contract for services, including education and health.

While official policy states that the Native American ought to be free to determine his or her future, to what extent can the various tribes be independent of Federal aid and the controls which accompany such aid (for that matter, how independent can any group of people be in such a relationship)? Federal commitments to provide tribes with health, education, and welfare benefits, in exchange for reservation lands, are remnants of a trust responsibility founded in mercantilist colonialism.

Historically, government has been assumed to be the best protector of property, both on and off the reservation. The state maintains the right to protect resources, rather than protect the individual's right to their use. This is evident in the trust agreement which has evolved out of the restrictions on Native Americans to develop the resources at their disposal.

Under this system, disputes over the use of property are political in nature, and the public manager chooses among special interests. Where Native American tribes dispute over land, for example, as have the Navajos and Hopis in northern Arizona, political solutions of the Bureau of Indian Affairs are unable to resolve the conflict, which is a fundamental question about property rights. Where the mechanisms of the market and freedom are bypassed, social and economic chaos is the result, affecting millions of lives.

The quality of property management is determined by the structure of the property rights in force. Public managers produce outcomes which please no one "because they are faced with ill-defined multiple use mandates and have no personal stake in decisions."[13] The trust agreement which is so hallowed by the Bureau of Indian Affairs leads to the attrition of reservation lands and the abridgment of rights to remaining properties.

American Indian policy has promoted government-guaranteed security over freedom. Laws have governed the rights to spend money and own land. The reservation system was enforced through dependency: The Native Amer-

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ican knew that he could drink and gamble his money away and be sure to keep his home and land.[14]

Government subsidies and controls mask the consequences of irresponsibility. If conditions are not established which permit failure, failure is collectivized and compounded throughout the culture.[15] As governmental efforts to provide "security" are increased, and the market is further hindered, the more elusive this security becomes.[16]

It is remarkable how similar this policy is to the institution of slavery in the pre-Civil War South. Both policies were established and justified on racial grounds, where the master cares for an individual after denying him fundamental rights as a human being. Like many slaves, a distressingly large number of Native Americans have lost the ability to provide for themselves. The main difference between our Indian policy and outright slavery is that in the case of Indians, the conqueror stopped one step short of total subjugation and could not fathom what to do next.

Instead of trying to administer socialism in a more efficient manner (through staffing the Bureau of Indian Affairs with Native Americans and giving them more say in how they want to be administered, for example), the U.S. must examine whether a policy for a particular racial group is warranted at all. Then, perhaps, the policy-makers might discover the inherent racism of such a policy.

Government management of Indian Affairs is incompatible with a free society. The Bureau of Indian Affairs administers a racist policy—not unlike the apartheid system of South Africa—which has decimated the initiative of a once-proud people. Yet the pre-reservation Native American was capable of administering his own affairs. He will be able to once again pursue his cultural, social, and economic potential only when the Bureau of Indian Affairs has been abolished. The property this agency commands should revert to the Native Americans, who must be free to exercise their property rights over it as they choose. As with any social group, only freedom can produce desirable social and economic results. The Native Americans must be given the opportunity to reaffirm this. □

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IDEAS ON LIBERTY

Wards of the Government

Most of the advocates of government paternalism really believe that they are able to know and to do what is "best" for all of the people. Most of them may honestly desire to help people. But their efforts *always* result in some form of bondage.

—DEAN RUSSELL

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The Polish Underground

by Lawrence W. Reed

Six years after the Polish government crushed the independent trade union Solidarity, many Americans think of Poland as a pacified and docile society, a country of perhaps reluctant but generally obedient subjects. So much for false impressions. Poland is nothing of the kind.

Beset by political oppression, food shortages, and a socialist system that produces more headaches than goods, Poles are dodging and weaving around the Communist regime of General Wojciech Jaruzelski in ways that defy a foreigner's imagination. What is percolating in Poland constitutes such a profound challenge to Marxist dogma that it seems sure to put the government on a collision course again with its own people.

I went to Poland for seven days in November 1986 to glimpse something of the nature and effectiveness of those who oppose the government there. Escorted by activists in Poland's newest and fastest-growing opposition group, known as the "Freedom and Peace Movement," I conducted many hours of interviews in Warsaw and Krakow. What I discovered goes far beyond anything I had expected.

Much to Oppose

To begin with, there is much for the opposition in Poland to oppose. Communism's promise of a better life has given way to appalling dirt and safety conditions in work places, sooty air which poses a major health threat, frequent shortages of everything from gasoline to toilet paper, luxury living for party officials while the masses live at two-thirds the 1980 standard, and a housing crisis that would spark a revolution in most other countries.

The long lines that are so much a part of life in socialist nations are prevalent in Poland, too, though they seem to be shorter. Double-digit inflation in the past three years simply put many goods out of reach altogether for many people.

In Krakow, where two pounds of butter cost 100 *zlotys* five years ago, the same amount is priced at 500 today. Lemons were 30 *zlotys* for a small quantity then, 600 now. Bread was 12 *zlotys* five years ago, now it's 50. Meat and gasoline are among the items rationed.

(At the time of my visit the official exchange rate was 200 *zlotys* to the dollar; the black-market rate was 800 to the dollar.)

Shortages of materials and spare parts are so common that factories are idle for 12 hours of the average 42-hour workweek.

A 27-year-old student at Jagiellonian University in Krakow told me that 10 years ago, a salary of 5,000 *zlotys* a month was enough to get by comfortably. "Now I get 20,000 *zlotys* and that's not enough," he said.

Fifteen-Year Housing Wait

He also complained that the quality of many goods has declined. Shoes that last more than six months of normal wear, for instance, are hard to find except at exorbitant prices.

The housing shortage is so bad that the average waiting time to get an apartment is be-

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tween 15 and 20 years. In parts of Warsaw, the wait is as long as 25 years—in other words, until someone dies.

But throughout my visit, I couldn't help noticing the contrasts between Poland and what I have observed on previous journeys into the Soviet Union. In that context, Poland comes out the winner: Poles are friendlier and smile more easily than Russians; Polish store fronts are much more colorful and attractive; the general appearance of Polish cities is a bit less drab and monotonous than Russian cities.

A fascination with Americans and American culture helps to distract many Poles from their economic woes. Polish children play "cowboys and Indians" and yearn for American chewing gum. Old Bill Haley and the Comets records command a premium on the legal market. A very popular radio show features country music from the United States and is called *All the Roads Lead to Nashville*. Hot dogs, the ubiquitous "OK!" and a quiet popularity of Ronald Reagan underscore a society that feels a stronger bond to America than to its neighbor immediately to the East, the Soviet Union.

Another distraction is the bane of alcoholism. I saw men in drunken stupors staggering down alleys or sprawled on doorsteps with appalling frequency.

Foreign Debt

In its trade relations with non-Communist nations, Poland as a whole is in a stupor. The government is not able even to make the interest payments on its nearly $35 billion external debt. Both imports and exports are dismally low for a partially industrialized nation of 38 million people.

Clearly, the Polish economy is yet another socialist basket case and a source of much discontent. But Poles have seen even worse economic times before, such as in World War II.

What motivates today's anti-government activism are *political* realities, not economic problems. Change the political structure to diffuse power and break the monopoly of the Communist Party, say leading spokesmen for the Polish underground, and the economic problems will go away.

The New York-based Lawyers Committee for Human Rights recently issued a report that details systematic and brutal repression by the Warsaw government. It condemns the "100 per cent conviction rate" in the new system of 48-hour trials for political dissidents, the "persistent practice of violence by police under which defendants in custody have been beaten with regularity, and even murdered," and prosecutions of harmless political activity.

Not even the Roman Catholic Church, which commands the loyalties of 90 per cent of Poles, is immune. In a case that shocked the world, agents of the secret police in October 1984 abducted, tortured, and murdered "Solidarity's favorite priest," Father Jerzy Popieluszko. Three officers were convicted in that killing. Other priests who have spoken out against the regime have simply disappeared.

This is a country in which even the famous logo of Solidarity, written in its familiar jaunty style, cannot legally appear anywhere.

In this situation, the always resourceful Poles have actually formed a second, alternative society. This "parallel Poland" comes complete with private, illegal versions of virtually every aspect of official life—including the press, education, insurance, theater and the arts, radio, health care, and exchange rates.

The Underground

Solidarity's Wiktor Kulerski outlined the parallel society when he wrote this while in hiding: "This movement should create a situation in which authorities will control empty stores, but not the market; the employment of workers, but not their livelihood; the official media, but not the circulation of information; printing plants, but not the publishing movement; the mail and telephones, but not communications; and the school system, but not education."

At a dinner party one evening in Krakow, hosted secretly for me by several underground printers, I was dazzled with the scope of what my hosts called "independent publishing ventures." They had translated and printed works by Alexander Solzhenitsyn, Irving Kristol, Michael Novak, George Orwell, Milton Friedman, and Ayn Rand, among others. I was able to smuggle two works out of the country:

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Banner proclaiming "Freedom and Peace."

Orwell's *Animal Farm* and Novak's *The Spirit of Democratic Capitalism*.

That particular dinner party featured some of the best food of the week, including a delicious Polish sauerkraut-like dish known as "Bigos." I asked permission to take a photograph of the table filled with a dozen colorful dishes and was politely refused.

"If the authorities ever get your film, they will use the picture as propaganda—to complain that the underground eats like rich capitalists," said one of my hosts. Almost everything I ate that evening had been secured at considerable sacrifice through illegal channels.

"Where do you get the paper for all this printing?" I inquired. The response made me roar with laughter: "We get it two ways. We smuggle some in from the West, and we steal the rest from Communists, which we regard as recovering property which was stolen in the first place."

Later in the week, I learned from a professor at the University of Warsaw that economics students there are quietly required to read some of the greatest works of free-market scholars—many of which are banned in Poland.

Illicit Publishing

Seven illicit publishing houses in the country together produce 200 books a year in editions of up to 10,000, according to *The New York Times* (December 31, 1986). When the government recently mounted a campaign to confiscate the cars of their distributors, the publishers banded together and formed their own underground insurance company to cover the confiscation of cars, paper, and materials.

Meanwhile, entire "underground universities" flourish in the major cities, holding classes and conducting research in the most unlikely places: warehouses, basements, churches, and even the state's own university buildings after hours.

On the black market, Poles are producing and trading everything from vodka to automo-

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biles. It seems there's no Pole who isn't trading *zlotys* for dollars at three and four times the legal rate. Rumor has it in Warsaw that even private banks paying interest on deposits have sprung up. The Polish economy, it seems, is being "privatized" whether the government likes it or not!

All this activity "under the table" supports and encourages an ever bolder political opposition. In recent months, the group which has concerned the government more than even the smoldering remnants of Solidarity is the one which arranged my schedule and provided my escorts—Freedom and Peace. A story in the November 4, 1986, *Washington Post* referred to this group as having "gained the support of thousands of young people and ushered in a new generation of opposition leadership eager to test communist authorities."

Restless for Change

In meetings with dozens of these Poles in their late teens, 20s, and early 30s, I was stunned by their depth of commitment and high degree of sophistication. They are the intelligentsia of Polish anti-Communists, extremely knowledgeable of world affairs and on the ideological offensive. They are restless for change and willing to endure imprisonment or worse to make change happen.

The issue that brought Freedom and Peace into existence in 1985 was the refusal of more and more young people to take the oath required upon induction into the military. They are not pacifists, but they do object to swearing allegiance to the Soviet Union and its Warsaw Pact alliance.

Through hunger strikes, sit-ins, petition drives, and acts of civil disobedience, Freedom and Peace activists and sympathizers have sought with some success to pressure the government to release from prison those who refuse the oath.

In spite of all manner of harassment—beatings, torture, wire-tapping, imprisonment, and so on—Freedom and Peace has only broadened its appeal and its agenda.

It defies the government with a fund-raising campaign on behalf of Afghans wounded as a result of the Soviet invasion of Afghanistan. It condemns "socialist pollution" which has wreaked havoc on the air and water in Poland. It champions equal rights for women, and the democratic ideals of a free press and free elections. Its members read and distribute literature that criticizes the planned economy, pokes fun at Marxist dogma, and calls for a "free enterprise liberation" of the Polish economy.

Its leadership has even made several contacts with so-called "peace" groups in the West—in an attempt to convince them that, in the words of spokesman Jacek Czaputowicz, "without freedom there can be no peace." Speaking of Western naïveté about the Soviets and their intentions, Freedom and Peace cofounder Jan Rokita declares, "A government which makes war against its own people cannot be trusted to make peace with its neighbors."

This is strong stuff to be said and done in a captive nation, but Poles throughout their tortured history have always shown they are up to the task. Freedom and Peace is carrying on in a grand tradition of Polish patriots—and maybe even expanding the limits of creative, non-violent combat.

Visiting this troubled but intriguing place called Poland renewed my appreciation for those who struggle against oppression. What the people of Poland must endure is appalling, but how they cope with it is fascinating. □

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A REVIEWER'S NOTEBOOK

The Politics of Unemployment

by John Chamberlain

We are living in an age of deregulation. It has paid off in oil prices, in trucking, in airplane tickets, and in telecommunications. But the politicians, mindful of the big unions, persist in a refusal to apply deregulation to wages.

Hans F. Sennholz, who is well known to readers of *The Freeman,* argues that the political fixation on a compulsory minimum wage is a primary cause of unemployment. He is inexorable about his contention in a no-holds-barred book called *The Politics of Unemployment* (Libertarian Press, Spring Mills, PA 16875, 356 pp., $19.95 cloth). He also deals with a lot of other things that keep wages from falling to market-clearing levels that would permit full employment. There is the Davis-Bacon Act, which keeps construction costs high. There is the Wagner Act and the Norris-La Guardia Anti-Injunction Act and the Railway Labor Act of 1926. All of them bear out Ludwig von Mises' contention that interventionism imposes costs that hurt the ultimate consumer, to say nothing about investors who are being robbed of their capital. But the coercive minimum wage is Hans Sennholz's *bête noire.*

Walter Williams has thoroughly exposed the effects of the minimum wage on young people, particularly black teenagers. But this, according to Sennholz, is just the tip of the iceberg. Recent research, he says, confirms that "only about one-third of low-wage earners are teenagers; almost one-half are twenty-five to sixty-four years of age; two-thirds of the low-wage population are believed to be female; and some ten per cent are individuals sixty-five years old or older." Taken together, low-wage earners comprise some ten per cent of the American labor force. Any further rise in the minimum wage would make it uneconomic for an employer to hire people who can't earn their keep.

Sennholz is concerned that the unemployment rate of black youth in recent years has ranged between forty and fifty per cent, which is double the rate for white teenagers. But he is equally concerned for unskilled women, and especially unskilled workers in hotels, restaurants, hospitals, laundries, and automotive service stations. These workers must live continuously with the danger of being fired when the minimum wage is raised.

Toward the end of his book Sennholz zeroes in on Puerto Rico. Puerto Ricans, being U.S. citizens, can quit their tropical island if better opportunities beckon on the mainland. Some 1.5 million have gone to the continental U.S., leaving 3.5 million at home, where they welcome remittances from their departed kin.

Sennholz says the fact that the unemployment rate in Puerto Rico often greatly exceeds the U.S. national average is puzzling. The federal government levies no taxes on Puerto Rico save for Social Security, workers' compensation, and other labor benefits. Puerto Rican residents pay no taxes on income earned from local sources. And the U.S. government employs thousands of Puerto Ricans at the Naval Station at Roosevelt Roads and other Federal facilities. But none of this keeps the island from being what Sennholz calls "an overcrowded poorhouse" where "many people

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subsist on minimum incomes'' supported by alms and transfer payments.

Having described the Puerto Rican situation as puzzling, Sennholz proceeds to take the puzzlement out of it. Puerto Rico, he says, ''is probably the world's most vivid example of the asininity and absurdity of labor legislation. It demonstrates so cogently and convincingly that minimum wage laws, and other labor legislation that raise the cost of labor, do not improve economic conditions, but instead make them immeasurably worse.''

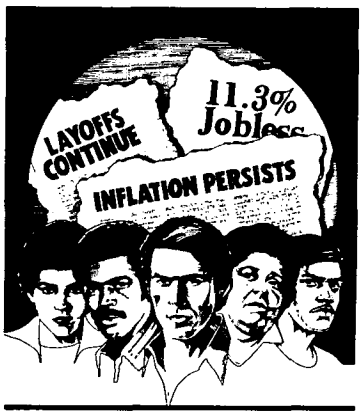
Puerto Rico is poor in natural resources. But in a free economy, unconstrained by labor legislation, economic production that is labor-intensive would gravitate to the island. With his attention to detail Sennholz mentions table and household linens, embroidered and drawn-work by hand, clothing embellished with fancy stitching and hand-rolled edges, appliqué work on towels, bridge sets, scarves, doilies, and pillow cases. These could be produced on the island and sold on the mainland. ''The American people, as consumers,'' says Sennholz, ''would be greatly enriched by the productive efforts of some two million adult Puerto Ricans.'' As things stand now, however, American consumers of scarves, doilies, and what-not buy from Hong Kong and South Korea.

On the U.S. mainland the minimum wage may amount to one-half the average industrial wage rate and may affect some ten per cent of the working population. In Puerto Rico, the same minimum approaches the full industrial wage and hits a vast majority of the working people. ''The aggregate effect of the U.S. minimum wage on Puerto Rico,'' says Sennholz, ''is one of incredible devastation and humiliation. Some 25 per cent of the working population are presently unemployed, 10 to 15 per cent are under-employed, some 10 per cent are subsisting in self-employment or primitive farming, 18 per cent no longer participate in the labor market, and 5 per cent subsist on public assistance.''

Sennholz calls this ''gruesome.'' On the mainland the figure for incomes lost through interventionism comes to $196 billion as estimated by Morgan O. Reynolds in his *Making America Poorer: The Cost of Labor Law* (Cato Institute, 224 Second Street S.E., Washington, DC 20003, 218 pp., $21.95 cloth, $9.95 paper). This is gruesome, too. Luckily, however, human beings find ways of getting around the gruesome statistics.

Sennholz does not advocate breaking the laws. He would prefer to see Congress repeal them. But it is his duty as a commentator to take human nature as he finds it. Many Americans, he says, enter the labor market via the underground. They learn as kids that pocket money earned through odd jobs doesn't get into their parents' income tax reports. The underground economy tempts young people who are budding entrepreneurs to take off-the-book jobs which may be irregular but profitable. These young entrepreneurs, says Sennholz, ''are everywhere, in towns and in the country, and are numbering hundreds of thousands.''

So the situation, as described by Sennholz, is not as ''gruesome'' as one might suppose. Sooner or later our legislators will learn that stupid laws cannot be enforced. The tougher the labor legislation, the more the underground will tend to grow. □



The Politics of Unemployment

by Hans F. Sennholz

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The Foundation for Economic Education, Inc.
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VOLUME 37
JANUARY-DECEMBER 1987

Prepared by
Bettina Bien Greaves

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